AGENDA

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, TO BE HELD SEPTEMBER 1, 2015, AT 6:00 PM., AT THE COUNCIL CHAMBERS BUIDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

- I. CALL TO ORDER
- II. ROLL CALL
- III. PLEDGE OF ALLEGIANCE
- IV. BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION.
- V. PROCLAMATIONS

DESIGNATING SEPTEMBER 7-13, 2015, AS "SUICIDE PREVENTION WEEK." DECLARING THE WEEK OF SEPTEMBER 7-13, 2015, AS ELKS NATIONAL PATRIOTISM WEEK.

PROCLAIMING SEPTEMBER 7-13, 2015, AS NATIONAL EMPLOYER SUPPORT OF THE GUARD & RESERVE WEEK.

DECLARING SEPTEMBER 26, 2015, AS VERDE RIVER DAY.

VI. PRESENTATIONS

RECOGNITION OF CITY EMPLOYEES WHO HAVE RECENTLY GRADUATED FROM THE VERDE VALLEY LEADERSHIP PROGRAM.

DEMONSTRATION OF THE CITY'S NEW UTILITY BILLING ON-LINE CUSTOMER PORTAL.

VII. CALL TO THE PUBLIC--This portion of the agenda is set aside for the public to address the Council regarding an item that is not listed on the agenda for discussion. However, the Council cannot engage in discussion regarding any item that is not officially listed on the agenda for discussion and/or action (A.R.S. §38-431.02(H).) Comments are limited to a 5 minute time period.

VIII. APPROVAL OF MINUTES

SPECIAL MEETING OF JULY 14, 2015 AND REGULAR MEETING OF JULY 21, 2015.

Comments regarding items listed on the agenda are limited to a 5 minute time period per speaker.

IX. CONSENT AGENDA--The following items are considered to be routine and noncontroversial by the Council and will be approved by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Agenda.

- SAMPLING PRIVILEGE LIQUOR LICENSE APPLICATION--CLARE H. ABEL, APPLICANT FOR WALMART SUPER CENTER #1299, LOCATED AT 2003 EAST RODEO DRIVE.
- 2. AWARD OF BID TO ARIZONA NORTHERN EQUIPMENT FOR CONSTRUCTION OF THE RIVERFRONT RECLAMATION FACILITY ACCESS ROAD.
- X. NEW BUSINESS—The following items are for Council discussion, consideration, and possible legal action.
 - 1. SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY LANA TOLLESON, APPLICANT FOR THE COTTONWOOD CHAMBER OF COMMERCE, FOR A CHAMBER MIXER SCHEDULED FOR SEPTEMBER 17, 2015, AT COUNTRY BANK LOCATED AT 597 EAST STATE ROUTE 89A.
 - 2. RESOLUTION NUMBER 2812--APPOINTING A MEMBER TO THE COTTONWOOD AIRPORT COMMISSION.
 - 3. RESOLUTION NUMBERS 2809 AND 2810--APPOINTING MEMBERS TO THE PARKS AND RECREATION COMMISSION.
 - 4. FINAL RENEWAL OF THE JOB ORDER CONTRACTS FOR UNDERGROUND CONTRACTING SERVICES WITH ARIZONA NORTHERN EQUIPMENT, TIFFANY CONSTRUCTION, AND KINNEY CONSTRUCTION SERVICES, AND INCREASING THE AMOUNT OF INDIVIDUAL JOB ORDERS FROM \$250,000 TO \$500,000.
 - 5. RENEWAL OF THE INTERGOVERNMENTAL AGREEMENT WITH THE MINGUS UNION HIGH SCHOOL DISTRICT FOR USE OF THE CITY'S AQUATICS FACILITY.
 - 6. AWARD OF BID AND APPROVAL OF CONTRACT WITH TOTAL SOUND PRODUCTIONS FOR PRODUCTIONS SERVICES FOR THE THUNDER VALLEY RALLY EVENT.
 - 7. ORDINANCE NUMBER 614--AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR PARCELS OF LAND TOTALING APPROXIMATELY 5.78 ACRES, LOCATED AT 840 SOUTH MAIN STREET (APN 406-04-040,) 842 SOUTH MAIN STREET (APN 406-06-029M,) AND APN 406-06-364G, SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF R-3 (MULTIPLE FAMILY RESIDENTIAL,) R-2 (SINGLE FAMILY/MULTIPLE FAMILY RESIDENTIAL,) R-1 (SINGLE FAMILY RESIDENTIAL,) AND C-1 (LIGHT COMMERCIAL,) TO PAD (PLANNED AREA DEVELOPMENT;) FIRST READING.
 - 8. RESOLUTION NUMBER 2813--ESTABLISHING TEMPORARY USE PERMIT FEES.
 - 9. SELECTION PROCESS FOR A NEW CHIEF OF POLICE TO REPLACE RETIRING POLICE CHIEF JODY FANNING.

- 10. ORDINANCE NUMBER 615 AMENDING THE COTTONWOOD MUNICIPAL CODE BY DELETING
 CHAPTER 18.08, FLOOD DAMAGE PREVENTION, AND REPLACING
 IT WITH A NEW CHAPTER 18.08, FLOODPLAIN MANAGEMENT;
 FIRST READING
- XI. CLAIMS AND ADJUSTMENTS
- XII. ADJOURNMENT

Pursuant to A.R.S. 38-431.03.(A) the Council may vote to go into executive session on any agenda item pursuant to A.R.S. 38-431.03.(A)(3) Discussion or consultation for legal advice with the attorney or attorneys of the public body.

The Cottonwood Council Chambers is accessible to the disabled in accordance with Federal "504" and "ADA" laws. Those with needs for special typeface print or hearing devices may request these from the City Clerk (TDD 634-5526.) All requests must be made 24 hours prior to the meeting.

Members of the City Council will attend either in person or by telephone conference call.

Notice is hereby given that pursuant to A.R.S. 1-602.A.9, subject to certain specified statutory exceptions, parents have a right to consent before the State or any of its political subdivisions make a video or audio recording of a minor child. Meetings of the City Council are audio and/or video recorded, and, as a result, proceedings in which children are present may be subject to such recording. Parents in order to exercise their rights may either file written consent with the City Clerk to such recording, or take personal action to ensure that their child or children are not present when a recording may be made. If a child is present at the time a recording is made, the City will assume that the rights afforded parents pursuant to A.R.S. 1-602.A.9 have been waived.



PROCLAMATION

Whereas, in the United States, one person dies by suicide every 12.8 minutes, with 41,149 deaths by suicide in our country during 2013; and

Whereas, in our country, suicide is the 2nd leading cause of death for 15-24 year olds, and is the 10th leading cause of death for people of all ages; and

Whereas, each person's death by suicide intimately affects at least six other people, with over 200,000 newly bereaved each year; and

Whereas, in 2013, 1040 Arizonans died by suicide and several thousand friends and family members were changed forever by losing those people; and

Whereas, many of those people who died may never have received effective behavioral health services for many reasons including the difficulty of accessing services by healthcare providers trained in best practices to reduce suicide risk, the stigma of using behavioral health treatment and the stigma associated with losing a loved one to suicide; and

Whereas, the Mental Health Coalition of the Verde Valley is comprised of representatives of behavioral health organizations, law enforcement agencies, faith communities, and citizen advocates who are all dedicated to reducing the frequency of suicide attempts and deaths, and the pain for those affected by suicide deaths, through providing resources, education and support.

THEREFORE BE IT RESOLVED that, I, Diane Joens, Mayor of the City of Cottonwood, on behalf of the Cottonwood City Council, do hereby designate September 7-13, 2015, as "Suicide Prevention Week" in Cottonwood and urge everyone to learn how they can help because suicide prevention is everyone's business.

Diane Joens, Mayor	



PROCLAMATION

Whereas, the Benevolent and Protective Order of Elks, through its Constitution, is a Patriotic Order; and

Whereas, the Order promotes the ideals that the citizens of this nation live in freedom, won through the great sacrifices and many tribulations which have provided the foundation for a free, prosperous and independent life; and

Whereas, we realize that each generation must work to maintain this freedom, otherwise, through carelessness or indifference, the rights and liberties enjoyed may vanish; and

Whereas, it is fitting and proper to recognize this freedom and to honor the nation which provides it.

Now, therefore, I, Diane Joens, Mayor of the City of Cottonwood, Arizona, on behalf of the Cottonwood City Council, do hereby proclaim September 7-13, 2015, as National Patriotism Week in Cottonwood, and encourage all citizens to join with the Benevolent and Protective Order of Elks in expressing gratitude for the privilege of American Citizenship with appropriate celebrations and observances.

IN WITNESS THEREOF, I have hereunto set my hand this 1st day of September 2015.



Proclamation

Whereas, National Guard and Reserve forces comprise nearly half of our nation's military strength, and are essential to America's national security. Reserve Component forces stand ready to answer the call to serve, whether serving alongside active duty counterparts all across the globe or responding to humanitarian crises at home and abroad; and

Whereas, employers provide critical support to members of the National Guard and Reserve; allowing Citizen Warriors to serve whenever the Nation calls, often foregoing financial gain and making sacrifices in the process; and

Whereas, employer support is stronger than ever, more than 41 years after President Richard Nixon authorized the Secretary of Defense to establish the National Committee for Employer Support of the Guard and Reserve (ESGR;) and

Whereas, our nation is in debt to the Citizen Warriors departing the comforts of home to ensure our freedoms remain intact. Likewise, America pays special tribute to the commitment of dedicated and supportive employers who continue to make service in the Reserve Components possible; and

NOW, THEREFORE, I, Diane Joens, Mayor of the City of Cottonwood, Arizona, do hereby proclaim September 7-13, 2015, as

National Employer Support of the Guard and Reserve Week

IN WITNESS THEREOF, I have hereunto set my hand this 1st day of September 2015.

Diane Joens, Mayor	



PROCLAMATION

WHEREAS, the Verde River is a riparian resource that winds its way through the heart of Cottonwood and the Verde Valley; and

WHEREAS, the citizens of Cottonwood cherish our natural environment; and

WHEREAS, Cottonwood's most precious natural resource, the Verde River corridor, reflects our community, who we are, and why we live here; and

WHEREAS, the Verde River corridor is a welcome and essential bed and breakfast for Neotropical birds on the arduous migration path between northern and southern Americas; and

WHEREAS, more than 340 bird species have been recorded flying, trilling and resting along the green riparian pathway and some of the highest breeding bird densities of any North American habitat exist in the Verde River riparian area; and

WHEREAS, the Verde River is a unique and important environmental and economic resource. It contains a significant amount of the riparian habitat left in Arizona where 85 percent of all wildlife in the area looks for sustenance and is critical to the survival of numerous native aquatic and terrestrial species; and

WHEREAS, the Verde River is a significant water supply and recreational corridor; and

WHEREAS, we risk losing this treasure if we don't strategize together to preserve it for future generations; and

WHEREAS, Arizonans must continue our work to successfully find accommodation for all the roles that rivers play, and

WHEREAS, Verde River Day was organized in 1988 to promote awareness of the Verde River's distinctive riparian habitat; and

NOW, THEREFORE BE IT RESOLVED that I, Diane Joens, Mayor of the City of Cottonwood, Arizona, do hereby proclaim September 26, 2015, as

Verde River Day in the City of Cottonwood

Diane Joens, Mayor	

City of Cottonwood, Arizona
City Council Agenda Communication



Print

Meeting Date: September 1, 2015

Subject: Recognizing 4 City Employees who have recently graduated

from the Verde Valley Leadership Program

Department: City Manager

From: Doug Bartosh, City Manager

REQUESTED ACTION

No Action Required

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

No Motion Necessary

BACKGROUND

The Verde Valley Leadership Program was founded in 2007 when a like minded group of individuals decided it was necessary to cultivate leaders from within our community. Verde Valley Leadership, Inc. is a non-profit organization, providing personal and professional growth through development of leadership skills, community awareness and diverse, influential networks. Their guiding principals are Leadership, Teamwork, Integrity, Service and Courage.

JUSTIFICATION/BENEFITS/ISSUES

VVL Classes 8 and 9 graduated this year. We want to recognize our city employees who graduated. These individuals are:

Morgan Scott

Andrea Harless

Amanda Wilbur

Troy Hoke

COST/FUNDING SOURCE

The cost of the program was paid by our general fund as well as partial scholarships offered by the Verde Valley Leadership Program.

ATTACHMENTS:				
Name:	Description:	Type:		
No Attachments Available				

City of Cottonwood, Arizona
City Council Agenda Communication



四 Print

Meeting Date: September 1, 2015

Subject: Demonstration of new Utility Billing On-Line Customer Portal

Department: Administrative Services

From: Kirsten Lennon, Accounting/Budget Manager

REQUESTED ACTION

N/A

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is: N/A

BACKGROUND

A on-line account review and bill payment program has become available to Water & Waste Water customers through the City Wide ERP system. The online portal gives the user the ability to view their current bill, previous payment activity and water usage history. It also allows them to setup a recurring credit/debit card payment at no fee and allows them to do a one time credit card payment for a small convenience fee. The new portal also makes it possible for the user to setup email billing and go paperless.

JUSTIFICATION/BENEFITS/ISSUES

COST/FUNDING SOURCE

ATTACHMENTS:				
Name:	Description:	Туре:		
No Attachments Available				

SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD JULY 14, 2015, AT 6:00 PM., AT THE COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

Mayor Joens called the meeting to order at 6:00 p.m. Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

COUNCIL MEMBERS ABSENT

Diane Joens, Mayor Karen Pfeifer, Vice Mayor Jesse Dowling, Council Member Tim Elinski, Council Member Randy Garrison, Council Member Terence Pratt, Council Member Ruben Jauregui, Council Member

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Marianne Jimenez, City Clerk
Steve Horton, City Attorney
Rudy Rodriguez, Administrative Services General Manager
Roger Biggs, Utilities Department Administrative Manager
Morgan Scott, Development Services Manager

RIVERFRONT RECLAMATION PLANT--DISCUSSION, DIRECTION TO STAFF AND POSSIBLE LEGAL ACTION TO AUTHORIZE ADDITIONAL TASKS AND COSTS OF THE PROJECT OUTSIDE THE SCOPE OF THE PREVIOUSLY APPROVED GUARANTEED MAXIMUM PRICE

Mr. Bartosh stated he thought it would be important based on the last meeting we had on this topic to go back in history. In July 2009 the estimated cost of the reclamation plant, without the learning center, raising it 2 feet above the 500 year floodplain, and without the floodwall, was 8.4-9.9 million. He doesn't know where we ever came up with 8.5 million, other than we took the low number and assumed it was going to come in at that. But considering the fact that we didn't include the mentioned items, 8.5 was an unrealistic number.

Mayor Joens stated I think I know where we got that. We had 13 million from the taxes for the wastewater bond, and we decided to keep 8.5 million for this project and the other funds were spent on other things.

Mr. Bartosh stated we were all hooked on to that number and carried it through the years. The initial guaranteed maximum price (GMP) came in at 10.8, which is certainly consistent with the original estimate we had, and in April this year the council asked staff to go back and try and reduce that number. Staff came back with options to reduce the price of the project down to 8.1 million. The council originally agreed they wanted to leave the solar in which was almost a 2 million dollar increase which got us to the current 10.1 million dollar

GMP from Felix Construction. We are here today because there were things that were removed from the GMP because staff felt we could get those projects done cheaper if staff undertook those efforts in an effort to try and reduce the GMP as much as possible. We worked to try and get grant funding or private funding for the solar system, and so far there hasn't been any opportunity to achieve that kind of funding. It appears we may have found a grant for the advanced oxidation to remove the pharmaceuticals, which was removed from the project. At this point, the total cost for the project including those items outside the GMP is about 11.5 million.

Mr. Knickerbocker reviewed the history of the project, the service area lift station 3 covered, and explained what a lift station is. He stated Riverfront Park was identified as a potential site because of the existing opportunities for beneficial reuse of the reclaimed water. The concept was to irrigate Riverfront Park. What's been added is an injection well near the plant which would allow for 100 percent credit for ground water. Irrigation of the Riverfront Park area will allow you to curtail use of Verde River water irrigation and you won't have to use the existing irrigation well that's onsite. Hydraulically, the location of the wastewater treatment plant is advantageous because it saves the city money by not pumping the wastewater up to the treatment plant. What they were going to do is pump what is called "mixed liquor" which has all the course solids removed, then it's treated biologically, and you end up with mixed liquor which is 99.7 percent water. Mixed liquor is less corrosive to a sewer than the raw sewage that is being pumped right now. When this plant is at full capacity we will pumping between 10-20,000 gallons per day versus 300,000. The screenings are dewatered and placed in baggies and hauled to the landfill.

Mr. Biggs reviewed the list of tasks that were pulled out of the GMP as cost savings and was thought could be done by city staff or an outside contractor in the effort of saving money. Many of these items were originally going to be done by city staff, however, that was problematic as staff had full time jobs to accomplish. We may go back to Felix to ask for additional quotes, or JOC contractors or other outside sources to accomplish these tasks. The first item covered under the Capital Improvement Fund was the access road to the plant off of 10th Street which was an unpaved, gravel, all-weather road (\$45,000;) the SCADA installation to integrate the new plant and the existing plant for communication and control (\$75,000;) APS installation costs for primary and secondary conduits (\$100,000-\$200,000;) reservoir and construction of base (\$241,000;) stand-by generator (\$85,000;) construction surveying (\$6,400;) building systems-fire alarms and telephone data systems for the administrative building (\$45,000;) permit fees for building the plant (\$24,900;) water, gas, phone-costs of bringing these utilities on site (\$35,000;) haul fill material to bring the plant up two feet above the 500 year flood stage (\$166,000;) building fixtures (\$6,000;) and construction administration charges (\$195,000.) The Water Development Fund would cover the exploratory well (\$113,000;) injection well (\$320,000;) and permits (\$85,000.) He asked council for approval of these costs which were required for the construction and operation of the plant.

Mr. Bartosh stated if we completed everything on this list it could eventually cost us 3.7 million dollars, but the soccer field that costs almost a million dollars isn't really part of the reclamation plant.

Mr. Biggs stated tonight he was asking the council to authorize an expenditure of \$1,743,000 for this list of tasks under Capital Improvement.

Mr. Whitmer explained the need for an injection well, and stated in some of the earlier presentations there was an issue of what do we do with the reclaimed water after it's been treated. There are lots of irrigation opportunities down there to use a portion of that water, but when you start talking about running a plant around the 300,000 gallon per day limit, that equates to about 326 acre feet per year. If we tried to use 326 acre feet per year to irrigate everything down there we would have a swamp. The plan was to inject any unused reclaimed water that was not being used for irrigation back into the aquifer. The benefits were many; it allows us to get rid of the reclaimed water in a way that provides benefits to the city, river, and entire regional aquifer system itself. We will apply for an underground storage facility permit from the Arizona Department of Water Resources, which will give us a recognized accounting of exactly how much water we're putting back into the regional aquifer. Even though we don't need credits to pump water because we're outside of an active management area, we will accrue credits with the Department of Water Resources. If and when the adjudication does get up here and they start looking at trying to determine the sub-flow zone where water that is being pumped out of the ground is being classified as appropriable ground water or surface water, we may potentially have some wells that could fall into that category. By building up a bank account with these credits we could potentially do some negotiations where we say we're putting in virtually everything we take out, and that could allow us to continue using those pumps instead of having to go out and develop additional wells. That was a benefit to the city's portfolio of water resources. It benefits the river by putting it back into the regional aquifer that eventually makes it back to the river. By accruing credits for this we can use the water development fund that is one of the fees that is associated with the bill. We currently have a significant amount of money in that fund of slightly less than 4 million dollars. We would be using some of it for the injection well up at Mingus. This well, including the testing, is going to come in slightly over a half million dollars.

Council Member Elinski stated on the chart it indicated \$518,000 was what was coming out of the water development fund.

Mr. Whitmer stated that was a very conservative estimate. Whenever you go in and start doing an injection well in an area where there haven't been a whole lot of holes dug into the regional aquifer you don't know what you're going to run into. A part of that \$518,000 would be an exploratory hole with some testing to determine how much water we can actually put back into that area without causing problems. Based upon that, we'll know exactly how many actual injection wells we will produce. We're hoping we can get by with one. If we run into similar characteristics that we found at the Mingus wastewater treatment plant we could potentially put 300 acre feet in that whole year.

Mayor Joens asked about the remaining funds from when the CAP was sold by the water company.

Mr. Whitmer stated that would be used to complete the injection well at the Mingus plant. Mayor Joens stated she was asked to meet with Dave Gann from the Nature Conservancy a month or so ago, and they were very supportive of this plant and the water injection that would provide some assistance to the river.

Mr. Whitmer stated right now we've elected to try and remove the oxicadion system out of the design. We're hoping to put that back in. He had approached the Walton Family Foundation as well as the Nature Conservancy and the Bureau of Reclamation to see if we could get financial assistance. If we inject that water close to the river it benefits the river tremendously. All three entities were very interested in this. Right now the Walton Family Foundation and the Nature Conservancy have partnered up together and indicated an interest in paying for inclusion of the oxicadion system into the design of the wastewater treatment plant.

Mr. Rodriguez handed out worksheets and reviewed the one percent capital improvement fund history that had been used for projects such as 12th Street, the Mingus Avenue roundabout, and the communications center. The Riverfront reclamation facility to date has spent over 1 million dollars in engineering and other costs. We have 5.6 million currently available. The current excise tax bond which is going to reimburse some of our projects is 11.3 million. The projects that are currently remaining to be paid out of the debt that we just issued were: \$650,000 for restrooms, \$500,000 for the solar at the sewer plant, Mesquite Hills-- about 1/4 million to extend the waterline, Mingus Avenue 4.8 million, and we have about \$650,000-\$660,000 remaining on the 12th Street project. That leaves us a balance of 4.4 million, including what we currently have, in the capital improvements fund that brings it up the 10 million dollars that we anticipate to spend on the GMP. We are looking at the sewer solar and options to offset that particular cost by offsetting the energy savings that we have. Any projects we can save money on we will use that money for the reclamation project.

Mr. Knickerbocker stated the population and flows were starting to increase and what we're seeing right now is an increase in costs for wastewater treatment plant equipment. What happened during the recession is in a lot of areas of the economy prices went down, but because the wastewater treatment plant equipment is so specialized prices have continued to rise. The quotes that Felix received to come up with the GMP were good for 90 days, and 90 days have come and gone and Felix has been able to secure those quotes. If you choose to postpone this project the prices are starting to see an increase for wastewater treatment plant equipment. If you choose to expand the Mingus plant the unit cost to expand an existing wastewater treatment plant is higher than the cost for new plants, in general. In the 2007 wastewater master plan we said the average time to plan and build a plant is from 5-8 years. Right now we're at that 8 year mark. If we continue to wait, the plant right now is almost up to 1 MGD (million gallons per day) and you're going to have to address this in the next five years anyway, and at that point the cost of wastewater treatment is going to be

much higher than it is today. This treatment plant (Riverfront) is going to take anywhere from 15 months to 2 years to construct now.

Mr. Bartosh stated to summarize it for the council, at this point the council has approved the GMP. Staff has recommended another million dollars in terms of essential things that need to be done to support the plant along with about half a million dollars for an injection well that will come out of the water resource fund. The council has the option to not approve these which would probably necessitate not doing the plant, we could delay other projects, or we could look for additional monies.

Mayor Joens asked if there were any comments from the public.

Roger Daignault, of Cornville, stated it looks like the project may almost double before it even gets started. If they passed on another \$2.21 to the water users in the outside as well as the inside, it's getting piled on and we have no voice, no say. He asked the council to take a long hard look at the project and either put it out for bid again at the current rates and get a hard number. When you have things that you think you want to do yourself, then we ought to have a list and have a plan, not a wish list. He questioned how much is enough.

Sherry Twamley, who lived in Verde Village, stated the water resource fund was in the 2006 bond as a reserve. That fund is specified to be used for finding new resources for water. She questioned how that can be used for wastewater.

Mayor Joens stated injection wells will be new water, and wastewater belongs to a city. It's the only water in the state of Arizona that actually belongs to a municipality. Restoring the Verde River through this water would be new water.

Ms. Twamley stated the problem is 67 percent of the water bond debt is being paid by outside residents that have septic tanks, so she strongly objects to that use of that money.

As Susan Cox approached the lectern, Mayor Joens stated she would like to have a disclosure of any kind of connection Ms. Cox might have with any council members.

Ms. Cox stated she worked with Jessie and she knew the Mayor and Randy. She had concerns as to why six weeks ago you all did not know of this 1-3 plus million dollar list that the city staff would not be able to do. She knew there was a change of staff and maybe the previous staff person pulled all that out to make the contract look better. It is a little strange that nobody picked up on that and four people voted for it. She questioned if the four that voted for it knew that this was going to rear its ugly head. This puts us up and over an already very expensive project. She liked the idea of the project and thought there was probably a cheaper way. There was a good chance that there were cheaper systems out there now because of technology and it might be worth our time to step back a bit and say wait a minute. She was on a fixed income and if she was faced with even a \$35 sewer bill, it was getting up there, and this was something the citizens had the right to expect the council to be financially responsible. She asked that they put the contract on hold and rethink it.

Phil Terbell, a Clarkdale resident, stated this project bets the bank. All of the money in the capital improvement funds, all of the money you're going to attain from the new bond, and all of the money that you're taking in, you're betting on one project. He thought the project added up to 13 million dollars and if the contingency was short and you need more money, I don't know where it comes from. This project wipes out all of the contingency money for the town of Cottonwood and we had to think a little bit more prudently. We've got initial signs of recovery and there was discussion about recovery in Arizona not keeping up with the recovery in America. The jobs aren't coming to Arizona or the Verde Valley. Some really hard questions need to be asked. It was unfortunate that we're at the late point in this, and there's been discussion going on for 8 years, but he did not think that plowing ahead was the answer.

The next speaker was Tom Pender, and Mayor Joens stated last time he spoke, she was concerned because he was the boss of a council member and that could be an influence on a vote. She wanted the public to understand that and know that Mr. Pender did have a relationship (with Council Member Dowling) and he answers to him for his job.

Mr. Pender stated Mr. Dowling was an employee of Pender Engineering, and he could assure her that he did not have a lot of influence over Mr. Dowling. Mr. Pender's primary concern was very similar to what Phil discussed. There were still a lot of unknowns out there. We talked about groundwater recharge, which he was very familiar with that and he had experience trying to get those approved with ADEQ. He was apprehensive about getting a groundwater discharge from ADEQ. The bottom line was you're spending, low number, 13 million dollars. He thought they could spend that 13 million in a lot better places, and was concerned about the cost of this facility. He did not think it was fiscally responsible to use all of the money that you have available for a project like this. He suggested they work with Felix to develop other plants that are more in an economically viable area. You can build a sewage treatment plant for a lot less that what you're paying here. It's not going to have as sophisticated technology, but it treats the water to the same level.

Mr. Knickerbocker stated when we originally looked at this plant in the planning stage we looked at all different types of plants and did a detailed cost analysis and threw out numbers back then and a lot of these numbers are still the same today. We can probably build this plant for less money, but you're going to get a cheap plant with a steel tank and you're going to have to replace it in five to ten years. If we are going to postpone this facility now, you're going to end up paying more in the long run. This plant was scaled back considerably and the main treatment part of the plant was analyzed with many different types of facilities before we recommended this plant. There's a concept out there that you can build a treatment plant really cheap. Yes, you can, but you're going to get what you pay for, have higher operation costs, and have to hire operators. With this plant you don't have to hire another operator.

Mayor Joens stated the council wanted the plant to be solar and that raised the price. Essentially, it was an environmental project, which when she talked to the public they were

very Verde River conscious, and environmentally conscious. This project cost more because we want to protect and benefit the environment and the Verde River. It's never been about the cheapest wastewater project we could build. It's been an environmental project that we have poured our care, concern, and love into. It adds quality of life to residents, and not just Cottonwood residents. When you think about the park, 60 percent of the people who use the Little League field live in Verde Village, Verde Santa Fe, and Cornville. We don't have to give the water back to the river, but we're choosing to do that and it's going to cost a little more money than a regular wastewater treatment plant's going to cost, and it's going to be painful. It's never going to cost less to get this protection for the river and the environment, and save people money in the long term on electric bills.

Mr. Whitmer stated as far as issues with regards to ADEQ, they are approving injection wells and have recognized that reclaimed water is the only natural resource that we have that grows with increasing population. If you look at the regulations governing recharge, we will meet the standards for recharging in that area via injection. We are working on getting our APP (aquifer protection permit) for the Mingus well and there aren't any issues at this point in time.

Council Member Elinski stated if we borrow the million dollars staff recommends we need right now to build the facility, I'm not comfortable passing that fee on to the users at this point. I don't feel they should have to pay for that. He asked what the other options for us are if we do borrow that million dollars if we can't decrease the costs of some of these other things and we can't get any grant money.

Mr. Rodriguez stated this is an enterprise fund, that's why he would suggest it come out of there. He also wanted to address the fact that there's been mention about using the entire fund and there might be problems and we're giving away the bank. To understand the operation of the facility versus this fund, are two separate things. This fund has not been used to operate that facility in any way since 2007. At one point we used this fund, part of the one percent, to do maintenance work as well as capital projects. Since we sunsetted that tax, we have not used the fund. That's also why we started pushing hard to raise the rates at the wastewater treatment plant, because we went through about 1.3 million dollars of reserves by not raising rates. There's two separate funds that we don't intermingle them anymore since it sunset. If there's a problem with lift station four or any of the lift stations or the improvements that we're doing to the current lift station, those have nothing to do with the fund that we're talking about.

Mr. Bartosh stated the other option was to delay or eliminate some of the other projects. For instance, the solar at the wastewater plant and the restrooms. That's a total of 1.1 million.

Mayor Joens we wouldn't necessarily eliminate them, but we might postpone them for another year.

Council Member Elinski stated I know our wastewater rates are lower than most in the state and definitely the communities around us, but I don't want to give the public the impression

that it's got out of hand and we're going to build it anyway and charge them immediately to build this facility. I would almost be more in favor or postponing the solar, incrementally raise our rates and get them up to state average, and at a later date add the solar back into the project.

Mr. Bartosh stated if you delayed the solar in the reclamation plant you're saving about 1.7 million.

Mr. Knickerbocker stated there would be some changes to the power if they removed the solar and the cost would increase; it wouldn't just be a 1.7 million dollar cut.

Council Member Pratt stated to eliminate the solar would be cutting off your nose to spite your face in a way because it's going to provide 80 percent of the electricity. It's environmentally sound and it's a savings, so he would hate to see the solar eliminated.

Council Member Elinski stated he's been excited about the facility for about 8 years and know that it will put Cottonwood on the map in a way that I think will help Arizona. We're going to set the bar. This facility will promote Cottonwood and help with economic development; it will bring people here. It won't be any cheaper and here in Arizona we have to start thinking about building facilities like this, and somebody has to set that example. I'll be proud to live in a city that was the first to set that example.

Vice Mayor Pfeifer stated it was not like we have just seen this information and decided to spend 10-13 million dollars. We have done due diligence, studied it, checked others, and we've gone through it for the last 8 years. It's not like this is new to us. We don't just throw money around. We're concerned about the environment, water levels in the river, and water levels in the aquifer. But when it comes to spending the almighty dollar this is not a one-legged stool. We're putting water back into the aquifer. If we have to spend a little more money to get a top rate wastewater facility, so be it. We need it, our outlying neighborhoods need it, not just the city limits of Cottonwood. Eventually they're going to have to do something with their septic tanks. If you take all of this into consideration we're really not that bad. We're concerned about everybody. It's not just about money; it's about doing the right thing for the State of Arizona, the City of Cottonwood, and the residents of Cottonwood and the outlying areas.

Council Member Pratt stated I agreed with everything that's been said positive about this project. Although I had concerns when I got the agenda for tonight's meeting, it surprised me there were intrical parts of this project that were left out of the Guaranteed Maximum Price and it seemed kind of odd to me and it's led me into a lot of reflecting.

Mr. Biggs stated he needed to clarify a point. The dollar amount that he was asking council to approve this evening outside the GMP is 1.07 million dollars; \$1,070,000.

Mr. Bartosh noted the injection well is another \$518,000.

Council Member Dowling stated I completely support the concept, like the idea, and know it needs to be done. After having 8 years to examine it and look into things in a perhaps less emotionally attached way to the inception of the project, and being at a different industry that is somewhat closer to it, that's where I run into a brick wall. My history of it has been it went from 8.1 million to 10.1, and now maybe an 11 plus something to a 13 plus something million dollar job. The art of progression on it has me to the point where I feel we got to the tipping point. We're over a barrel and we don't want to waste the money we've spent or ruin the concept. We all support the idea of the environment and employing local contractors and being good. I look at the difference in the numbers and it's a big jump. If we could take that money and get two non-Cadillac or great plants, we could double our economic invigoration and have some more impact with it. Every time I come back to it the numbers are changing and I can't be certain they're not going to come back and it goes up again. I feel I have to draw a line in the sand for myself, and that's where I'm coming from in my decision. It's not influenced in any way by my employment or whom I speak with; it's strictly done through myself through my research and through my understanding of the item.

Archie Lopez, of Felix Construction, went over the cost of the plant they had built in Show Low and the reassembled used plant they installed for Clarkdale. He stated there are ways to do things cheaper and to suit different needs. Everything they put in plants today are 3/16 stainless steel products so things last a lot longer. There were so many new technologies they had to comply with to make the plants last and safe for the operation staff.

Council Member Garrison stated he was really frustrated by this whole discussion and disappointed. It sounds like it's a shared feeling that we've kind of been snookered to a point with the whole financing angle of this plant. Things got pulled apart and segregated to the point where it was palatable to go ahead and pursue this plant, and this is a get me now or get me later list. We're going to pay for all these things whether you're seeing it now or we're going to see it 3, 4, or 5 years when we decide to put the soccer field in or put in the road. The decision was made to move forward with the project and I didn't vote that direction and I wouldn't today, but the decision's already been made and I'm not going to go back on that. Before I got seated (on the council) I sat down with Rudy and asked how are we going to pay for this plant. I got to sit down with Mr. Knickerbocker and others and discussed the plant and how it was needed, why it was needed, and what the impact was going to be on the river, and on the community, and on the wells and aquifers and all that, and I buy into all of that argument, but my concern was the cost. When we sat down and talked about it, the comment was we have eight and a half million dollars so we're going to have to make it for that. Everybody keeps saying I don't know where the 8.5 million figure comes from and it got installed in the public's head. It got installed because that's what we've been told for 8 years. We've been arguing that this plant is going to cost 13-15 million dollars because that's where the original estimates came in and everybody said we've got it cut down to eight and a half million and we'll be able to get it done for the money we have sitting on our books without going out and asking for any additional resources. Yet here we are. We approved 10 and a half million, now we're looking at another million plus, up to three, plus another five hundred for the injection wells and it just keeps getting broken up into all these

things, but it comes back in in an extremely high cost and we're sitting there talking about getting rid of the solar at the wastewater plant. The reason we're doing the solar at the wastewater plant, and we're only doing a small system not really the system that it's called for up there, is to be able to do what we need to do is because we got a presentation about how Cottonwood scores among the lowest in the state in cost per gallon of water service through our wastewater treatment plant because our electric costs are so high. We said let's put in solar so we'll reduce our electric costs and it will bring us back up on the scale so we won't be the very worst in the state, we'll be in the 8th percentile. We don't want to get rid of that because it causes another problem at this end. Regarding the bathrooms; we went from needing \$250,000 for three different bathrooms, now they're saying we might be able to get them all done for \$500,000 and now we're talking about holding those back off for 3 or 4 years. How long have we been fighting and you been fighting to get those bathrooms in. This isn't something we want, it's something the community needs. I can see property taxes coming down the discussion because we're going to have to figure out how to start paying for all this. We can't do roads and sidewalks in town because we don't have any money and we're spending everything on this one job because it makes us feel good about what we're doing for the Verde River. At some point we have to say we made a decision, we're moving forward, but we have to figure out how to bring it into a budget that we can live with. Passing on \$2.21 per million dollars borrowed, which I see that raising up to around 3 million, we're going to have to borrow or beg or delay in this job to get it done. So we're looking at \$2-6.50, \$7.00 per customer, to take and pay for this plant that's already over and above what we're already dealing with and we already bit off to pursue it in the first place. I had a real hard time just continuing to push these prices off on our customers regardless of where we sit on the scale of cost per sewer bill in our neighborhood and our region and in the state. At some point we have to just call it guits and we have to move forward and get it done. But the way this has been done and the way we've been hit with all these extras that we now have to do that weren't part of this maximum cost just seems to be irresponsible to me. I'm just having a real hard time with it.

Council Member Elinski stated I share the same concerns as Council Members Garrison and Pratt about the feeling somewhat blind sighted about the additional costs. I am also extremely concerned about that, displeased to put it nicely, but I'm also trying to think beyond how that makes me feel. We have to move beyond that and finger pointing and just think about this project as being important for the community and for the future and that's what I'm trying to focus my attention on now.

Mr. Bartosh stated he would like to respond to those comments. We did our best to get this back down under budget by taking those things out that we thought we could save money on. We didn't bring those during the GMP discussion because we didn't have final numbers on all of those. It wasn't an attempt to snooker the council or to hide anything; we just didn't have those numbers at that time. However, the council had been advised at a couple different meetings that we had trimmed it quite a bit. Not only by reducing the project, but also taking things out that staff was going to be able to do and that's what we did. That's why we're here tonight; in the interest of full disclosure so that the council can decide whether or not they want to spend this additional money.

Mayor Joens stated she guessed she would make a motion to authorize the undertaking and completion of any or all of the additional tasks and associated costs for the Riverfront Wastewater Treatment Plant project as presented, up to a maximum additional amount of \$1,073.

Mr. Horton stated the way we structured the motion, the number you would want to discuss, move, and vote on would be 1.6 million.

Mr. Bartosh stated that would include the extra and the injection well.

Mayor Joens stated okay, because Roger kept saying he needs \$1,076,000.

Council Member Pratt stated \$1.364 million, that's the low estimate. The highest end is \$3.407.

Mr. Horton stated as he indicated before, there's some range numbers in the high end of the range that also includes items that aren't really connected to a wastewater plant. They're connected to this universal project that includes a wastewater plant in a park and irrigation, sports fields, and those things. So I think staff is comfortable with asking the council to consider increasing the project, to authorize an increase in the project cost over the GMP of 1.6 million dollars that includes the injection well.

Mayor Joens stated okay and continued with her motion as follows: Of 1.6 million dollars and to authorize staff to negotiate an increase of up to....

Mr. Horton stated we're not sure how much additional work Felix might be able to do competitively, but if you put \$500,000 in there, that's not money that's going to get spent on the contract necessarily, but I think that will cover the additional items that might be included.

Mr. Bartosh stated he thought the issue is predominately with the hauling of the dirt, so we may shift a piece of that 1.6 back over to the GMP.

Mayor Joens again continued with her motion as follows: And to authorize staff to negotiate an increase of up to \$500,000 in the previously approved GMP of \$10,139,957 for additional items and tasks that will be performed and guaranteed by the contractor as part of its scope of work.

The motion was seconded by Council Member Elinski.

Mayor Joens asked for a vote of all in favor and ayes were said.

Mr. Bartosh interrupted and stated the \$500,000 was not in addition to the 1.6. Whatever goes into the \$500,000 comes out of the 1.6; just so the council's clear on that.

Mayor Joens stated, so the Mayor made the motion, Mr. Elinski seconded it, and she asked for all in favor to say aye, and opposed to say no. Council Member Pratt and Council Member Dowling stated nay.

Mayor Joens stated we have three to three, so I think it fails, so the project is dead.

Council Member Pratt stated he was environmentally conscious and did like the project and did vote for it last time, I just couldn't go that extra step with things that I thought were integral to the plant that weren't included in that guaranteed minimum. That was what probably changed me.

Council Member Garrison stated I voted aye. I said you already voted to do this job; I don't see how we have a choice.

Mayor Joens then asked for a show of hands for the aye votes and the nay votes. Mayor Joens, Vice Mayor Pfeifer, Council Member Elinski, and Council Member Garrison raised their hands for the aye vote, and Council Member Pratt and Council Member Dowling raised their hands for the nay vote.

AWARD OF BID FOR DRILLING AN EXPLORATORY INJECTION TEST WELL FOR THE PROPOSED RIVERFRONT RECLAMATION PLANT

Mr. Whitmer stated as the first step of trying to determine the feasibility of injection in that location, we have developed a scope of work which called for the drilling of an exploratory well down to 800 feet. That will include an analysis of the characterization of the aquifer at that point, as well as doing a pump test to characterize the aquifer and try and get a feel for how much water we think we can inject. We have three bids that were submitted. The low bid came in at \$62,722, I believe. The next bid was \$66,000 and change, and the last one was over \$108,000. What this would be is to award the contract to Yellow Jacket Drilling for the drilling of that exploratory well.

Council Member Pratt stated it seemed to him since we are going to go forward with the reclamation plant this is a no-brainer; we need to do this. The low bid seems perfectly fair to me.

Council Member Dowling stated in spite of the last vote I do support this because I think we need to explore what's down there anyway, so I support it.

Council Member Pratt moved to contract with Yellow Jacket Drilling for the drilling of an exploratory groundwater injection test well at the proposed site of the Riverfront Wastewater Treatment Plant in an amount not to exceed \$62,735. The motion was seconded by Council Member Dowling, and carried.

ADJOURNMENT

Mayor Joens moved to adjourn. The motion was seconded by Council Member Elinski, and carried. The special meeting adjourned at 8:27 p.m.

MINUTES OF THE REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, HELD JULY 21, 2015, AT 6:00 P.M., AT THE CITY COUNCIL CHAMBERS BUILDING, 826 NORTH MAIN STREET, COTTONWOOD, ARIZONA.

CALL TO ORDER AND ROLL CALL

Mayor Joens called the meeting to order at 6:00 p.m.

Roll call was taken as follows:

COUNCIL MEMBERS PRESENT

COUNCIL MEMBERS ABSENT

Diane Joens, Mayor

Karen Pfeifer, Vice Mayor

Tim Elinski, Council Member

Randy Garrison, Council Member

Ruben Jauregui, Council Member (left the meeting at 7:50 p.m.)

STAFF MEMBERS PRESENT

Doug Bartosh, City Manager
Steve Horton, City Attorney
Matt McLean, Deputy Clerk
Jody Fanning, Police Chief
Michael Kuykendall, Fire Chief
Rudy Rodriguez, Administrative Services General Manager
Hezekiah Allen, Recreation Services Supervisor
Douglas LaSota, City Magistrate

PLEDGE OF ALLEGIANCE

Judge La Sota led the pledge of allegiance.

BRIEF SUMMARY OF CURRENT EVENTS BY MAYOR, CITY COUNCIL AND/OR CITY MANAGER -- THE PUBLIC BODY DOES NOT PROPOSE, DISCUSS, DELIBERATE OR TAKE LEGAL ACTION ON ANY MATTER BROUGHT UP DURING THIS SUMMARY UNLESS THE SPECIFIC MATTER IS PROPERLY NOTICED FOR LEGAL ACTION

Mr. Bartosh announced the community health screening is this Friday, and the youth commission just returned from their annual trip. He recognized Chief Fanning for receiving the Livio A. Beccaccio Award of Excellence FBI National Academy Award for Law Enforcement Leadership.

Council Member Elinski stated planning has started on the Historic Home Tour that will occur during the Walkin' on Main event scheduled for November 14.

Mayor Joens announced that Wednesday, July 22 will be the groundbreaking ceremony for the Verde Valley Military Service Park; July 8 was the unveiling of the High Water Mark sculpture at the library; she attended the Governor's Council on Aging meeting on July 10; the Senate passed the reauthorization of the Older Americans Act on July 14; on July 14 the chamber ambassadors had a ribbon cutting for the Miracles Happen restore that helps the Steps to Recovery Homes; July 15 she attended the world premiere of Yavapai College for Kids film Strange Island; on July 15 she attended a meeting with Marianne Jiménez and Debbie Crincoli, who is the Executive Director for the Verde Valley Teen Center; July 17 she attended the Arizona Forward luncheon; July 17 she attended the Verde Valley Leadership graduation; July 18 she attended the Yavapai Apache Nation ribbon cutting for their Market Place service station and store; and July 19 she attended Lynda Zanolli's retirement party. She remembered Army First Lieutenant Jonam Russell who lost his life in Afghanistan on July 23, 2013.

AWARDS

<u>DISTINGUISHED BUDGET PRESENTATION (FINANCE DEPARTMENT) & CERTIFICATE OF ACHIEVEMENT FOR EXCELLENCE IN FINANCIAL REPORTING (JESUS "RUDY" RODRIGUEZ)</u> FROM THE GOVERNMENT FINANCE OFFICERS ASSOCIATION

Mayor Joens presented Mr. Rodriguez with the distinguished budget award and certificate of achievement for excellence in financial reporting awarded by the Government Finance Officers Association

PRESENTATIONS

PRESENTATION OF A PLAQUE TO BILL BOWDEN'S FAMILY FOR HIS YEARS OF SERVICE ON THE PARKS & RECREATION BOARD.

After Mr. Faust reviewed the volunteer work Bill Bowden had done in the community, Mayor Joens presented Mr. Faust with Bill Bowden's plaque, as Mr. Bowden's family was not present to receive it.

WATCHGUARD VIDEO SYSTEMS FOR POLICE OFFICER BODY CAMERAS

Chief Fanning gave a short presentation on the Watchguard Video System.

PRESENTATION REGARDING THE TILTED EARTH WINE AND MUSIC FESTIVAL.

Mr. Allen reviewed the study performed by the University of Arizona on behalf of the Tilted Earth event.

Eric Glomski gave a brief update on the festival, and Mayor Joens and the council presented Mr. Glomski with a signed framed poster thanking him for the event.

Mr. Bartosh stated staff will be bringing this back to council to discuss the city taking a larger role in this event next year.

UPDATE REGARDING THE THUNDER VALLEY RALLY EVENT SCHEDULED FOR SEPTEMBER 18, & 19, 2015, IN OLD TOWN COTTONWOOD

Mr. Allen reviewed the plan for the Thunder Valley Rally Event. He informed the council that they will be closing the parking lots in Old Town starting at 4:00 a.m., on September 18.

CALL TO THE PUBLIC

There were no comments from the public.

APPROVAL OF MINUTES OF REGULAR MEETING OF JUNE 16, AND JULY 7, 2015

Council Member Elinski moved to approve the minutes. The motion was seconded by Vice Mayor Pfeifer, and carried unanimously.

CONSENT AGENDA

RESOLUTION NUMBER 2806-APPOINTING PAUL JULIEN AS A PRO TEMPORE CITY MAGISTRATE

RESOLUTION NUMBER 2807--APPOINTING E. LYNN RIORDAN AS AN ASSOCIATE MAGISTRATE

SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY ANDREA J. HARLESS, APPLICANT FOR THE OLD TOWN ASSOCIATION, FOR THE THUNDER VALLEY RALLY EVENT TO BE HELD SEPTEMBER 18 & 19, 2015, IN OLD TOWN COTTONWOOD

PERSON TRANSFER LIQUOR LICENSE APPLICATION FOR MICHAEL J. ANDERSON, APPLICANT FOR BOOTLEGGERS SALOON, LOCATED AT 1028 NORTH MAIN STREET, SUITE B

REMOTE TASTING ROOM LIQUOR LICENSE APPLICATION SUBMITTED BY JUSTIN L. OVE, APPLICANT FOR ARIZONA STRONGHOLD VINEYARDS, LLC, FOR THE TASTING ROOM LOCATED AT 1023 NORTH MAIN STREET

Mayor Joens pulled item number 3 from the consent agenda.

Council Member Jauregui moved to approve the consent agenda as presented. The motion was seconded by Council Member Garrison, and carried unanimously.

SPECIAL EVENT LIQUOR LICENSE APPLICATION SUBMITTED BY ANDREA J. HARLESS, APPLICANT FOR THE OLD TOWN ASSOCIATION, FOR THE THUNDER VALLEY RALLY EVENT TO BE HELD SEPTEMBER 18 & 19, 2015, IN OLD TOWN COTTONWOOD

Mayor Joens stated this item includes a business that is owned by Council Member Garrison's wife and she just wanted the public to be aware of that.

Mr. McLean stated that the special event liquor license ending time changed from 11:00 p.m., to 2:00 a.m.

Mayor Joens requested the Deputy Clerk read Resolution Numbers 2806 and 2807 by title only.

RESOLUTION NUMBER 2806

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING PAUL DANIEL JULIEN AS A PRO TEMPORE CITY MAGISTRATE AND ESTABLISHING HIS TERM OF OFFICE.

RESOLUTION NUMBER 2807

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, ARIZONA, APPOINTING E. LYNN RIORDAN AS AN ASSOCIATE CITY MAGISTRATE AND ESTABLISHING HER TERM OF OFFICE.

Mayor Joens stated Council Member Garrison declared a conflict on item number 3.

Council Member Elinski moved to approve the special event liquor license application submitted by Andrea J. Harless. The motion was seconded by Vice Mayor Pfeifer, and carried.

NEW BUSINESS

Mayor Joens requested item number 10 be heard first

AGREEMENT WITH THE COTTONWOOD CHAMBER OF COMMERCE TO RECEIVE 85 PERCENT OF THE CITY'S TRANSIENT LODGING (BED) TAX RECEIPTS TO BE USED FOR THE PROMOTION, DEVELOPMENT AND ENHANCEMENT OF TOURISM AND ECONOMIC DEVELOPMENT FOR THE CITY OF COTTONWOOD

Vice Mayor Pfeifer declared a conflict of interest.

Mr. Rodriguez stated this is our annual agreement with the Chamber of Commerce where they will receive 85 percent of the city's bed tax revenues. The remaining 15 percent will be funded directly to the CEDC.

Mayor Joens stated essentially they were receiving 100 percent before, and then giving 15 percent to the Cottonwood Economic Development Council. Now it is split up.

Lana Tolleson, President of the Cottonwood Chamber of Commerce, stated their accountant suggested the CEDC be funded directly from the city since they operate separately from the chamber.

Council Member Elinski moved to approve a new three year contract with the Cottonwood Chamber of Commerce as presented. The motion was seconded by Council Member Garrison, and carried.

Council Member Jauregui left the meeting.

The council presented a show check to Lana Tolleson.

Mayor Joens requested item 2 be heard next.

REQUEST FOR COUNCIL CONTINGENCY FUNDS FOR THE VERDE THUMBS GARDENERS FOR THE PURCHASE OF A LAPTOP COMPUTER FOR THE VERDE VALLEY SEED LIBRARY PROJECT

Kathie Knapp, co-chair of the Yavapai County Seed Library, stated Janice Montgomery will explain the seed library.

Janice Montgomery, co-chair of the Yavapai County Seed Library, stated the seed library allows patrons to check out seeds, grow the plants, save new seeds from the plants, and return the new seeds at the end of the growing season. We will be the second one in Arizona. This will allow us to develop saving seeds in our climate.

Ms. Knapp stated they are with the Verde Thumb Gardeners and have close to 300 members and are part of the Gardens for Humanity which are a 401c3 and they are supporting us. The seed library will be set up in the library, but they will be completely in charge of the seed library.

Ms. Montgomery stated the seed library's grand opening will be September 12. They will be hosting classes on how to save seeds in August. They are looking for a laptop to help keep track of the seeds.

Mayor Joens stated they need a computer for the program. They were suggesting between \$300-\$500 for a computer.

Mr. Rodriguez suggested the council give them up to a \$500 limit and then IT can sit with them to purchase and setup the computer.

William Eaton offered the seed library an additional \$250 donation.

Council Member Elinski moved to approve \$500 out the council contingency fund to support your program. The motion was seconded by Vice Mayor Pfeifer, and carried.

Mr. Horton stated he wanted clarification that the motion was for a sum certain, instead of an amount not to exceed.

Council Member Elinski stated his true intent was to give them \$500 and if they receive \$250 from William Eaton, then they will have \$750 for their program.

The council agreed with Mr. Elinski.

Mayor Joens introduced the Chamber of Commerce board members to the public.

Mayor Joens requested Item Number 7 be heard next.

COMMUNITY AGENCY FUNDING AGREEMENT WITH THE VERDE VALLEY SENIOR CITIZENS' ASSOCIATION

Mr. Rodriguez stated this was the annual funding agreement with the Verde Valley Senior Center which will receive \$55,000. He did talk with Elaine Bremner to advise her on how to seek additional monetary support for her organization from other agencies.

Ms. Bremner stated she graciously accepts the \$55,000 in support of their program. They have waiting lists for people to receive a meal and this is wrong.

The council presented Ms. Bremner with a show check for \$55,000.

COMMUNITY AGENCY FUNDING AGREEMENT WITH THE OLD TOWN CENTER FOR THE ARTS

Mr. Rodriguez stated this was the annual funding agreement for the Old Town Center for the Arts which will receive \$20.000.

Mayor Joens stated Mr. Eaton's advertising helps a lot of businesses in Cottonwood and Old Town. Then we will receive more tax dollars.

Mr. Eaton stated they appreciate the support.

The council presented a show check to William Eaton.

Council Member Elinski moved to approve the funding agreement for the Old Town Center for the Arts. The motion was seconded by Mayor Joens, and carried.

Mayor Joens questioned whether or not the council approved the senior center agreement.

Mr. McLean stated the council did not make a motion on that item.

Council Member Elinski moved to approve the funding agreement with the Verde Valley Senior Citizens Association. The motion was seconded by Vice Mayor Pfeifer, and carried.

COMMUNITY AGENCY FUNDING AGREEMENT WITH THE OLD TOWN ASSOCIATION

Mr. Rodriguez stated they have requested \$15,000, but we were not able to do \$15,000 this year. They will be funded \$10,000. Hezekiah Allen can accept the check for the Old Town Association.

Vice Mayor Pfeifer moved that we fund the Old Town Association for \$10,000. The motion was seconded by Mayor Joens, and carried.

The council presented a show check to Mr. Allen.

AGREEMENT WITH THE COTTONWOOD ECONOMIC DEVELOPMENT COUNCIL TO RECEIVE 15
PERCENT OF THE CITY'S SPECIAL EXCISE (BED) TAX RECEIPTS TO BE USED FOR THE
PROMOTION, DEVELOPMENT AND ENHANCEMENT OF ECONOMIC DEVELOPMENT IN THE
CITY

Mr. Rodriguez stated the remaining 15 percent of the bed tax will be funded directly to the Cottonwood Economic Development Council.

Council Member Garrison moved to approve the agreement with Cottonwood Economic Development Council. The motion was seconded by Vice Mayor Pfeifer, and carried.

The council presented a show check to Lana Tolleson.

PROPOSED CHANGES TO THE LIBRARY POLICY MANUAL REGARDING MEETING ROOM USE

Ms. Ward asked the council to make the motion to accept the changes, improvements, and updates to our library policy manual for the meeting room and meeting room application.

Mayor Joens stated it sounds like a really great policy and they have worked with the city attorney with all the verbiage.

Mr. Horton stated it looks good.

Council Member Elinski moved to approve the proposed changes to the library policy manual. The motion was seconded by Vice Mayor Pfeifer, and carried.

PROPOSED SOLE SOURCE PURCHASE OF NEW SOFTWARE AND RELATED SERVICES FOR THE CITY'S TRANSPORTATION SYSTEM

Mr. Rodriguez stated we are asking the council to not go out to bid for the expansion of the Route Match software. We have been buying modules to the Route Match software as the transportation system starts to expand and grow. They started putting tablets in the buses and they are looking to expand with mobile apps, and move to electronic cashiering in the buses. A lot of this is funded through the ADOT grant. They already have a portion of Route

Match software, and they would like to purchase an extension of the software, so there would be no need to go out for bid.

Vice Mayor Pfeifer moved to approve the Transportation Manager's recommendation to waive the city's Procurement Policy for the purchase of certain software and services as presented in the amount of \$74,997.50. The motion was seconded by Mayor Joens, and carried.

<u>DISCUSSION, CONSIDERATION AND POSSIBLE LEGAL ACTION REGARDING A PROPOSED INCREASE IN THE PAY CLASSIFICATION FOR TRANSPORTATION FIELD SUPERVISORS FROM RANGE 13 TO RANGE 16</u>

Mr. Rodriguez stated this one has slipped by us. A range 13 is an administrative assistant position. Our field supervisors do a lot more than administrative work. One field supervisor is already in the 16 range, and the other supervisor will have a slight adjustment in their salary. Most of the costs will be absorbed by the ADOT grant. When we put the budget together, this was overlooked.

Council Member Elinski moved to increase the pay classification for the Transit Field Supervisor position from Range 13 to Range 16 as recommended by staff. The motion was seconded by Vice Mayor Pfeifer, and carried.

DISCUSSION, CONSIDERATION AND POSSIBLE LEGAL ACTION REGARDING STAFF'S PROPOSAL/REQUEST TO CLOSE MAIN STREET BETWEEN PIMA STREET AND CACTUS STREET; TO CLOSE THE PARKING LOTS LOCATED THE COUNCIL CHAMBERS, TAVERN RESTAURANT, FINANCE/HUMAN RESOURCES BUILDING, CIVIC CENTER, CITY HALL/OLD TOWN ACTIVITY PARK, AND OLD JAIL PARKING LOTS; AND TO RESERVE ON-STREET PARKING AREAS FROM WILLARD STREET TO PIMA STREET FOR MOTORCYCLE PARKING ONLY FOR THE THUNDER VALLEY RALLY EVENT SCHEDULED FOR SEPTEMBER 18-20, 2015

Mr. Allen stated staff's main priority was to ensure a balance was struck between entrepreneurial needs and safety in Old Town. We have met consecutively since November and reviewed the site plan with the police department and fire department, and with the merchants and Old Town Association. The public works department suggested we close down the parking lots starting at 4:00 a.m., on Friday, since it would be too much of a challenge to move cars out once the event starts. There are three designated beer garden areas, and they will not be allowed to walk up and down the street with beer.

Council Member Garrison stated it will be a much better layout this year and it will be better for the community, businesses, and visitors.

Council Member Garrison moved to authorize the closure of Main Street between Pima and Cactus Street, as well as the parking lots located at the City Council Chambers, Tavern Restaurant, Finance/HR, Civic Center, City Hall/Old Town Activity Park, and the Old Town Jail; and to reserve on-street parking areas on Main Street between Willard Street and Pima

Street for motorcycle parking only for the Thunder Valley Rally event September 18-20, 2015. The motion was seconded by Vice Mayor Pfeifer, and carried.

RESOLUTION NUMBER 2808-ESTABLISHING A CONVENIENCE FEE FOR ONLINE PAYMENTS

Mr. Rodriguez stated this is in reference to the \$3.00 transaction fee for people that use the online payment portal. There is an additional fee to have the online portal. All of our data, such as usage and the bill itself, will be uploaded onto this portal so that every single customer will be able to log on and view their bills. It is costly to the utility company, so we are asking if anyone that uses it for payment purposes take part in subsidizing the cost of the portal. Customers can still walk into the office and pay with their credit cards and not be charged a fee. They would only be charged if they pay their bill online through the portal.

Council Member Elinski stated when the window pops up, can we list the other ways they can pay without paying a \$3.00 fee.

Mr. Rodriguez stated if we can't get it on the window, then we will post it somewhere on the webpage itself.

Council Member Garrison asked how much it costs to have someone sit at the window and collect a payment.

Mr. Rodriguez stated it's expensive.

Council Member Garrison asked if wouldn't this be a cost savings for the city to provide this service so we don't have the windows inundated with people coming in to make their payments once a month. It seems like we are making life better for the customer, but we are making life easier for the city since we are not going to have to staff extra windows.

Mr. Rodriguez stated we have a lot of people come in because they want to converse. We understand there will be a savings, but we have 9,000 customers and we doubt there will be a large amount of customers that will pay their bill online. We have to upload a huge amount of data just for a select few to use it. We are not going to lay people off because we have this software and less work.

Council Member Elinski stated he can see Council Member Garrison's point, but he would like to kick it off with the \$3.00 fee to see how much use it gets and see what kind of feedback we get. He doesn't know what the tipping point would be to make this cost effective.

Mayor Joens stated other cities and towns charge a convenience fee.

Mr. Rodriguez stated this is a starting point, and from here we would like to take other city services payable online, such as business registrations and permitting. This is not uncommon in the utility industry.

Council Member Garrison asked if the system we are implementing is capable of doing an equalizer.

Mr. Rodriguez stated we are looking at several options, such as an equalizer for a flat monthly bill and a SAFE program similar to APS. The customers have asked for the online payment system for a while now.

Council Member Garrison stated he would be okay with this if we can bring it back at some point in the future and see if it is creating a savings or not. He can see people taking advantage of the data, but not extra fee.

Mr. Rodriguez stated it is an inconvenience to us to provide this service.

Vice Mayor Pfeifer moved to approve Resolution Number 2808, establishing a convenience fee of \$3.00 for the use of any city-provided online portals to make payments to the city. The motion was seconded by Council Member Elinski, and carried.

Mayor Joens requested the Deputy Clerk read Resolution Number 2808 by title only.

RESOLUTION NUMBER 2808

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, ESTABLISHING A CONVENIENCE FEE FOR ONLINE TRANSACTIONS.

CLAIMS AND ADJUSTMENTS

Council Member Garrison moved to pay the claims and adjustments. The motion was seconded by Vice Mayor Pfeifer, and carried.

<u>ADJOURNMENT</u>

Mayor Joens moved to adjourn. The motion was seconded by Vice Mayor Pfeifer, and carried.

The regular meeting adjourned at 8:48 p.m.

City of Cottonwood, Arizona
City Council Agenda Communication



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Meeting Date: September 1, 2015

Subject: Application to Add Sampling Privileges to the Current Wal-Mart

Liquor Licence.

Department: City Clerk

From: Marianne Jiménez, City Clerk

REQUESTED ACTION

Consideration of an application to add sampling privileges to the current Wal-Mart Liquor License.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

I move to recommend approval of the sampling privileges liquor license application submitted by Clare H. Abel, applicant for Wal-Mart Supercenter #1299, located at 2003 East Rodeo Drive.

BACKGROUND

The Wal-Mart Supercenter located at 2003 East Rodeo Drive, currently has an approved liquor store (series 9) liquor license. The agent for Wal-Mart, Clare H. Abel, has submitted an application to add sampling privileges to the store's liquor license.

JUSTIFICATION/BENEFITS/ISSUES

All Sampling Privilege Liquor License Applications that are submitted to the Arizona Department of Liquor Licenses & Control (ADLLC) for locations that currently have a liquor license in the City of Cottonwood are presented to the Council for its recommendation of approval or denial of the application. The Council's recommendation is taken into consideration by the ADLLC prior to their final approval of the application.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:					
Name:	Description:	Type:			
D 9-1- 15 Walmart LL Sampling Application.pdf	Wal-Mart Sampling LL Application	Cover Memo			

State of Arizona Department of Liquor Licenses and Control

800 W. Washington 5th Floor Phoenix, Arizona 85007 (602) 542-5141

■ Liquor Store (series 9)□ Beer and Wine Store (series 10)		Liquor Store (series 9) Beer and Wine Store (series 10)
---	--	--

Sampling Privileges Form

					ampling Privileg					
Applica	nt's	Name	: Clare	Hollie Abel	RIZON	D	_ (chec	k one) Owner	☐ Agent ©	
Mailing	Ad	dress:			Bentonville	е	AR	Benson	72716_0500	
				ress or P.O. Box	City		State	County	Zip Code	
				<u>(928)634-</u>		Email: ch	abel	@bcattorr	neys.com	
Busine	ss N	Name:	Wal-M	lart Superce	enter #1299	Current Li	cense	_{#:} <u>091300</u>	32	
Physica	al Lo	ocation	of Busin	ess:	9					
			deo Driv		Cottonwoo	d	AZ	Yavapai	86326	
		Stree	et Address		City	'	State	County	Zip Code	访
liquor li	re cen	Hollie se ide	e Abel	ove will require	, understand compliance with the five thousand square control (A.R.S. 84.206	that, upon a he following	pprova :	ıl, sampling pı	rivileges for the	
Initial F	lere	1								ē
CHA	1.	the pre Wine S	mises sha tore (serie	Il contain at least es 10) applicants	five thousand squa	are feet to be	eligible	for sampling p	rivileges for Beer	and E
CHA	2.				cked by the licensee		ampling	area is not sta	ffed.	M1158
CHA	3.	The lice	ensee is o	therwise subject	to all other provision with the sampling.	ns of this title	. The li	censee is liable	e for any violation	
CHA	4.	The lice	ensed reta	iler shall make sa	ales of sampled pro	ducts from th	e licens	sed retail premi	ises.	
CHA	5.	The lic	ensee sha	Il not charge any	customer for the sa	ampling of an	y produ	icts.		
CHA	6.	The sa	mpling sha , wholesa	all be conducted ler or retail licens	under the supervision	on of an emp	loyee o	f a sponsoring	distiller, vintner,	
CHA	7.	Accura	te records	of sampling proc	lucts dispensed sha	all be retained	d by the	licensee.		
CHA	8.	Sampli one ou	ng shall be ince of dis	e limited to three tilled spirits per p	ounces of beer or c erson, per brand, p	ooler-type pr er day.	oducts,	one and one-h	nalf ounce of wine	and
CHA	9.	The sa	mpling sha	all be conducted	only on the licensed	premises.				
CHA	10	wine s The lic	tore with s ense mus	ampling privilege t be displayed in	ense for a liquor sto s (series 10S) will b a conspicuous publ r, distributor, whole	e issued and ic area of the	mailed	to the licensee ed premises tha	e's address of red at is readily acces	ord.

CHA 11. Liquor store license sampling privileges are not transferable.
CHA 12. I have read, understand, and assume responsibility for compliance with A.R.S. §4-206.01.
A.R.S. §4-206.01(J) Bar, beer and wine bar or liquor store licenses; number permitted; foci campling
1. Any open product shall be kept locked by the licensee when the sampling area is not staffed. 2. The licensee is otherwise subject to all other provisions of this title. The licensee is liable for any violation of this title committed in connection with the sampling. 3. The licensed retailer shall make sales of sampled products from the licensed retail premises. 4. The licensee shall not charge any customer for the sampling of any products. 5. The sampling shall be conducted under the supervision of an employee of a sponsoring distiller, vintner, brewer, wholesaler or retail licensee. 6. Accurate records of sampling products dispensed shall be retained by the licensee. 7. Sampling shall be limited to three ounces of beer or cooler-type products, one and one-half ounces of wine and one ounce of distilled spirits per person, per brand, per day. 8. The sampling shall be conducted only on the licensed premises.
Clare Hollie Abel , attest that I am the OWNER/AGENT filing this form, that I
have read, and assume responsibility for compliance with, A.R.S. §4-206.01 at the licensed establishment named on page 1, and verify all statements I have made on this document to be true, correct and complete. I understand that I am esponsible for the \$100 issuance fee and the annual \$60 renewal fee for these sampling privileges. Sampling privilege enewal fees are due at the same time as the renewal for the "current license #" identified on page 1 of this application. Gignature, Title
Notarized Signature
The forgoing instrument was acknowledged before me this day of worth year Notary Public: Signature OFFICIAL SEAL BETH BRIGGS day MARICOPA COUNTY My Comm. Expires August 3, 2018
For DLLC Use Only
S License #: Date of issuance:/
Issuance fee applicable?
Initials:

City of Cottonwood, Arizona
City Council Agenda Communication



<u></u> Print

Meeting Date: September 1, 2015

Subject: Riverfront Water Reclamation Facility access road bid

approval

Department: Development Services

From: Roger Biggs, Utility Department

REQUESTED ACTION

Council approval of Arizona Northern Equipment's not to exceed bid of \$65,702.52 for plant access road construction.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

I move to approve Arizona Northern Equipment's bid of \$65,702.52 for the Riverfront Water Reclamation Facility access road construction.

BACKGROUND

At the July 14th Special Session Council meeting, Council gave direction to Staff to proceed with project items outside the contractor's GMP. Construction of the plant access road is one of those items. Arizona Northern Equipment is a sub-contractor to Felix Construction for the Riverfront Water Reclamation Facility project. The 20 foot wide, gravel all-weather road begins at 10th Street, parallels the Cottonwood Ditch and ends at the plant entrance gate. In addition, the road will be above the 500 year flood plain.

JUSTIFICATION/BENEFITS/ISSUES

Due to their pre-existing status as sub-contractor for the forthcoming treatment plant project, Arizona Northern Equipment (ANE) was asked by staff to submit a bid for construction of the facilities access road. Direct selection of ANE for this job is permissible per ARS §34-20.D.2. It is staff's expectation that ANE's knowledge of fill material available nearby will reduce the final cost of this project.

COST/FUNDING SOURCE

Wastewater capital funds designated for Riverfront facility construction.

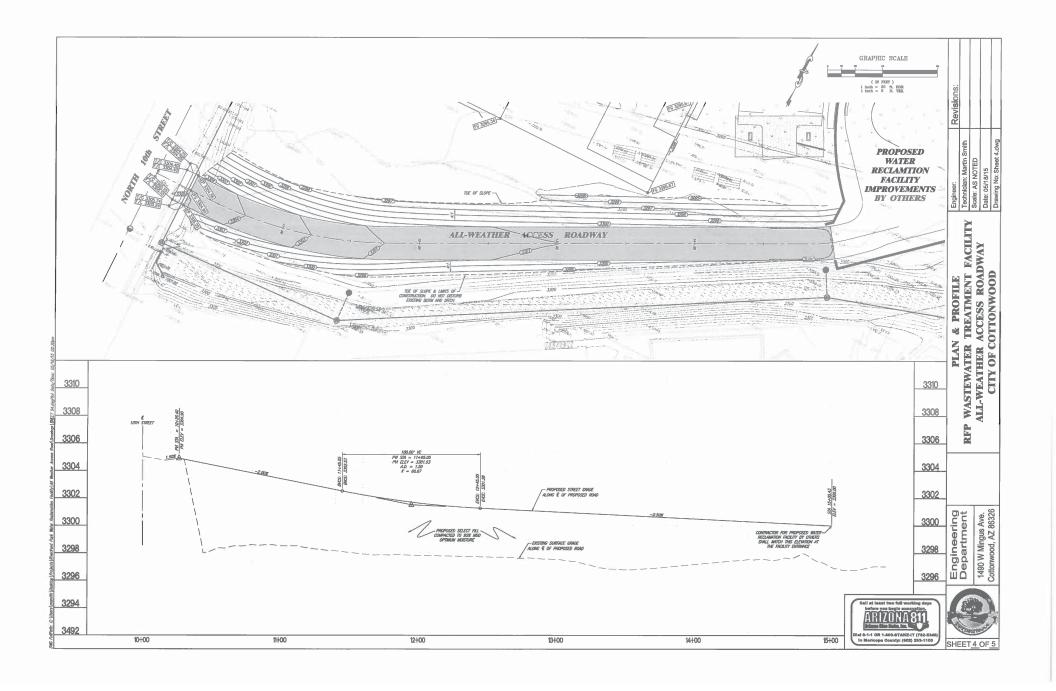
ATTACHMENTS:					
Name:	Description:	Type:			
☐ ANE access road bid.pdf	RWRF access road bid	Backup Material			
□ access_road_dwg.pdf	Access road drawing	Backup Material			

RIVERFRONT WWTP

EXTRAS FOR WORK OUTSIDE OF GMP Thursday, August 6, 2015 FELIX CONSTRUCTION CO.

SUBMITTED BY ARIZONA NORTHERN EQUIPMENT, INC.

					UNIT	
NO.	DESCRIPTION	QUAN.	UNIT	(COST	
	Entrance Road					
1	TREE REMOVAL	1	LS	\$	6,800.00	\$ 6,800.00
2	SUBGRADE PREP	2,750	SY	\$	3.00	\$ 8,250.00
3	EXCAVATION AND EMBANKMENT - NO IMPORT	2,620	CY	\$	6.00	\$ 15,720.00
4	DRIVEWAY ENTRANCE - with curb cuts and sidewalk removal.	308	SF	\$	12.00	\$ 3,696.00
5	3" ABC ON ROADWAY FOR TEMPORARTY ROAD SURFACE	1,262	SY	\$	5.00	\$ 6,310.00
6	SCREENING OF MATERIAL ON SITE AND DISPOSE OF GARBAGE	2,090	CY	\$	5.00	\$ 10,450.00
7	POTENTIAL IMPORT BASED ON QUANTITY DIFFERENCE	530	CY	\$	19.50	\$ 10,335.00
				SU	B TOTAL:	\$ 61,561.00
				SAL	ES TAX:	\$ 4,141.52
				TC	OTAL BID:	\$ 65,702.52



City of Cottonwood, Arizona
City Council Agenda Communication



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Meeting Date: September 1, 2015

Subject: Special Event Liquor License Application for the Chamber of

Commerce.

Department: City Clerk

From: Marianne Jiménez, City Clerk

REQUESTED ACTION

Consideration of recommendation of approval or denial of a Special Event Liquor License application submitted by Lana Tolleson, applicant for the Cottonwood Chamber of Commerce.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to recommend approval of the Special Event Liquor License Application submitted by Lana Tolleson, applicant for the Cottonwood Chamber of Commerce, for a Chamber mixer scheduled for September 17, 2015, at Country Bank located at 597 E. State Route 89A."

BACKGROUND

Lana Tolleson has submitted a Special Event Liquor License Application on behalf of the Cottonwood Chamber of Commerce for a Chamber mixer scheduled for September 17, 2015, at Country Bank located at 597 E. State Route 89A."

JUSTIFICATION/BENEFITS/ISSUES

All Special Event Liquor License applications that are submitted to the Arizona Department of Liquor Licenses & Control (ADLLC) for events located within the City of Cottonwood are presented to the Council for its recommendation of approval or denial of the application. The Council's recommendation is taken into consideration by the ADLLC prior to their final approval of the application.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:		
Name:	Description:	Type:
□ 9-1-15_Chamber_LL.pdf	Chamber Special Event Liquor License 9-17-15	Cover Memo

ARIZONA DEPARTMENT OF LIQUOR LICENSES & CONTROL

800 W Washington 5th Floor Phoenix, Arizona 85007-2934 (602) 542-5141

APPLICATION FOR SPECIAL EVENT LICENSE

Fee = \$25.00 per day for 1-10 day events only A service fee of \$25.00 will be charged for all dishonored checks (A.R.S.§ 44-6852)

NOTE: THIS DOCUMENT MUST BE FULLY COMPLETED OR IT WILL BE RETURNED

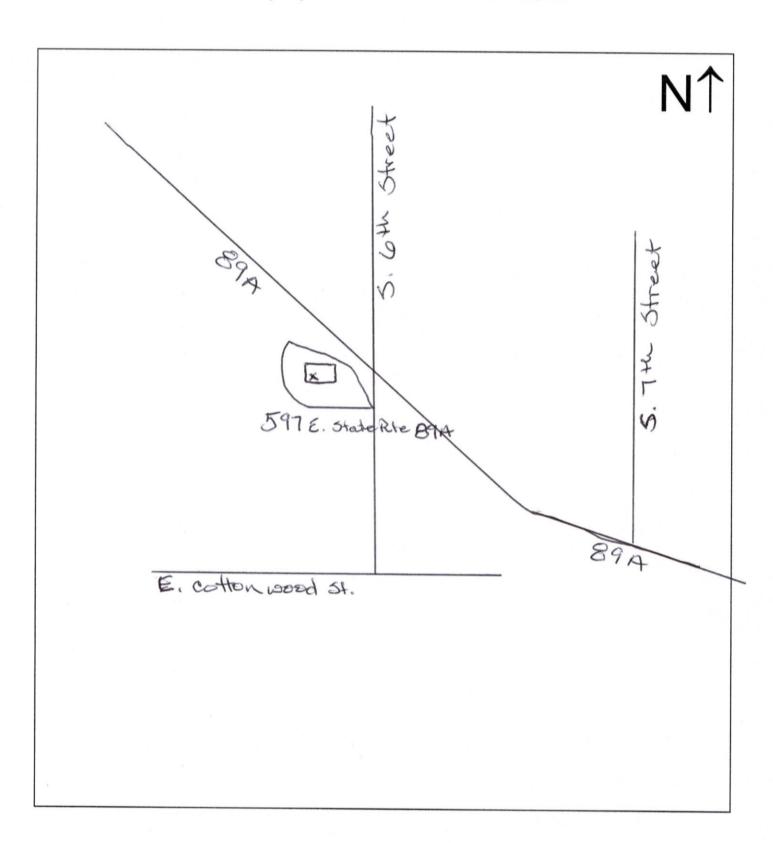
		PLEASE ALLO	W 10 BUSINESS DAY	S FOR PROCE		ORNED.
**A	pplication must	be approved by local g	jovernment before subn	nission to	DLLC USE	
	Department of Liquor Licenses and Control. (Section #20)				LICENSE	#
1.	Name of Organ	nization: Cottonwood Cha	mber of Commerce			
2.	Non-Profit/I.R.	S. Tax Exempt Numb	er: 86-0209700			
3.	The organization	on is a: (check one b	ox only)			
	☐ Charital	ble	nust have regular mem	bership and in e	xistence for o	over 5 years)
	Civic	Religious	☐ Political Party,	Ballot Measure,	or Campaign	Committee
4.	What is the pur	rpose of this event? [✓	on-site consumption	off-site cons	sumption (aud	ction)
		ing - Chamber of Commerce				
5.	Location of the	event: 597 E. State Rou		Cottonwood	YAVAPA	
Аp	plicant must be		l location (Not P.O. Box) ring organization and au	City Ithorized by an Of	County ficer Director	Zip or Chairnerson o
the	Organization na	amed in Question #1. (Signature required in se	ction #18)	noon, Director	or onumperson c
6.	Applicant: Tolle	eson	Lana	В	1	0/30/1960
		Last	First	Middle		Date of Birth
7.	Applicant's Ma	iling Address: 1010 S.	Main Street	Cottonwood	AZ	86326
			Street	City	State	Zip
8.	Phone Number	rs: (928) 639-0020 Site Owner #		34-7593 ant's Business #		1-5600
a	Date(s) & Hour		4-244(15) and (17) for legal		Арріі	cant's Home #
٥.	Date(s) & Flour				A 14 (D 14	
	_	Date	Day of Week	Hours from	A.M./P.M.	To A.M./P.M.
	Day 1:	Sept. 17, 2015	Thursday	6:00 PM		8:00 PM
	Day 2:			_		
	Day 3:			_		
	Day 4:			_		
	Day 5:			_		
	Day 6:					
	Day 7:					
	Day 8:	5 X				
	Day 9:	У				
	Day 10:					
nt	ember 2011 *	Disabled individuals requ	iring special accommodati	ons, please call (602) 542-9027	

10.	Has the applicant been convicted of a felony in the past five years, or had a liquor license re YES NO (attach explanation)	
11.	This organization has been issued a special event license for 3 days this year, including (not to exceed 10 days)	
12.	Is the organization using the services of a promoter or other person to manage the event? [If yes, attach a copy of the agreement.	YES NO
13.	List all people and organizations who will receive the proceeds. Account for 100% of the proceeds THE ORGANIZATION APPLYING MUST RECEIVE 25% OF THE GROSS REVENUES OF EVENT LIQUOR SALES.	
Na	ame Cottonwood Chamber of Commerce	100%
Add	dress_1010 S. Main Street, Cottonwood, AZ 86326	Percentage
Na	ame	-
Δda	dress	Percentage
Aut	(Attach additional sheet if necessary)	
14	. Knowledge of Arizona State Liquor Laws Title 4 is important to prevent liquor law violations any questions regarding the law or this application, please contact the Arizona State Depar Licenses and Control for assistance.	
NO	TE: ALL ALCOHOLIC BEVERAGE SALES MUST BE FOR CONSUMPTION AT THE EVEN "NO ALCOHOLIC BEVERAGES SHALL LEAVE SPECIAL EVENT PREMIS	
15.	What security and control measures will you take to prevent violations of state liquor laws at (List type and number of security/police personnel and type of fencing or control barriers if a	
	# Police	
	Staff personal trained and aware of state liquor laws and will enforce. Security at front door and serving area. Event is being	g held at a place of business.
	TiPS Concessions Trained: ID# 2689196 and ID# 2689200	
16.	Is there an existing liquor license at the location where the special event is being held? If yes, does the existing business agree to suspend their liquor license during the time	YES NO
	period, and in the area in which the special event license will be in use? (ATTACH COPY OF AGREEMENT)	YES NO
	Name of Business	Phone Number
17.	Your licensed premises is that area in which you are authorized to sell, dispense, or serve	e spirituous liquors

17. Your licensed premises is that area in which you are authorized to sell, dispense, or serve spirituous liquors under the provisions of your license. The following page is to be used to prepare a diagram of your special event licensed premises. Please show dimensions, serving areas, fencing, barricades or other control measures and security positions.

SPECIAL EVENT LICENSED PREMISES DIAGRAM (This diagram must be completed with this application)

Special Event Diagram: (Show dimensions, serving areas, and label type of enclosure and security positions) NOTE: Show nearest cross streets, highway, or road if location doesn't have an address.



THIS SECTION TO BE COMPLETED ONLY BY AN OFFICER, DIRECTOR OR CHAIRPERSON OF THE ORGANIZATION NAMED IN QUESTION #1
40 L Jana Tolleson
(Print full name)
applicant listed in Question 6, to apply on behalf of the foregoing organization for a Special Event Liquor License.
President/CEO 8-25-15 (928) 634-7593
(Signature (Title/Position) (Date) (Phone #)
Notary Public - Arstate of Yavapai County The foregoing instrument was acknowledged before me this
My Commission Expires
Day Month Year
My Commission expires on: 2-13-2019 (Signature of NOTARY PUBLIC)
(Signature of NOTARY POBLIC)
THIS SECTION TO BE COMPLETED ONLY BY THE APPLICANT NAMED IN QUESTION #6
19. Lana Tolleson declare that I am the APPLICANT filing this application as
(Print full name) listed in Question 6. I have read the application and the contents and all statements are true, correct and complete.
$\Lambda = 0$
State of Hi Zong County of Tava Par The foregoing instrument was acknowledged before me this
Signature EBECCA HERNANDEZ Notary Public - Arizona AS 8 2015
Yavapai County Day Month Year
My commission expression expressi
(Date) (Signature of NOTARY PUBLIC)
You must obtain local government approval. City or County MUST recommend event and complete item #20 The local governing body may require additional applications to be completed and submitted 60 days
in advance of the event. Additional licensing fees may also be required before approval may be granted.
LOCAL COVERNING PORY APPROVE CONTRACTOR
LOCAL GOVERNING BODY APPROVAL SECTION
20. I, hereby recommend this special event application
(Government Official) (Title)
on behalf of (City, Town or County) (Signature of OFFICIAL) (Date)
Department Comment Section: FOR DLLC DEPARTMENT USE ONLY
(Employee) (Date)
☐ APPROVED ☐ DISAPPROVED BY:
(Title) (Date)

City of Cottonwood, Arizona
City Council Agenda Communication



Print

Meeting Date: September 1, 2015

Subject: Airport Commission Opening/Placement

Department: Development Services

From: Morgan Scott, Development Services Manager

REQUESTED ACTION

Consider appointing an applicant to the open position on the Airport Commission.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is: I move to approve Resolution Number 2812 appointing Vernon Reed to the Cottonwood Airport Commission.

BACKGROUND

There is an open seat on the Cottonwood Airport Commission. The open seat was advertised in June of 2015 and the City only received one applicant. Vernon Reed applied for the position and possesses an exemplary technical background and has an interest in seeing aviation grow in the area. Mr. Reed is an active pilot with a plane located on the Cottonwood Airport.

Mr. Reed's application is attached.

JUSTIFICATION/BENEFITS/ISSUES

Mr. Reed will add valuable insight and knowledge to the Airport Commission.

COST/FUNDING SOURCE

There is no cost.

ATTACHMENTS:				
Name:	Description:	Type:		
Reed Vernon Daniel- Airport Commission Application Redacted.pdf	Application	Cover Memo		
<u>RES2812.doc</u>	Resolution Number 2812	Cover Memo		



RECEIVED JUL 0 6 2015

CITY OF COTTONWOOD 816 NORTH MAIN STREET COTTONWOOD, AZ 86326 Phone (928) 340-2713 Fax (928) 634-3727 Revised November 25, 2013

APPLICATION FOR Airport Commission					
	(BOARD/O	COMMISSION/COMM	ITTEE)		
NAME RE	ED, VERNON DANIEL				
MAILING	(Last)	(First)	(Middle)	
MAILING	ADDRESS (Route or Box)	(City)	(State)	(Zip)	
STREET A	ADDRESS	(0.07)	(=)	(
	(Number & Street)	(City)	(State)	(Zip)	
HOME PH	ONE 928-649-9089	WORK/M	IESSAGE PHONE		
EMAIL AI	ODRESS: vernonreed@yahoo.co	m			
	NOTE: Please check below which to the public, if requested (we reco			ny release	
	✓ Mailing Address	✓ Street	Address		
	✓ Home Phone	Work/Message Pho	ne 🗹 Email Addre	ess	
	TYPE OR PRINT CLEARLY IN		Private Pilot; Membe	er AOPA	
	nal and Domestic Telecommunica				
and IEEE		ations industry Ass	sociations - 110, bloa	ubanu Forum,	
	Bachelor of Science - Electrical Er Master of Science - Systems Engi				
Work Expe	erience_Recent retirement from AT	&T Laboratories a	s Lead Member of Te	chnical Staff;	
Broadban	d Expert and original creator of AT	T&T Uverse (copied	d as CenturyLink Prim	e) 2004-2015;	
Telecomm	unications Director for Northern Arizon	na - 2002-2004; Moto	rola Chief Technical Ma	rketing Director;	
Lockheed	Martin Senior Systems Engineer;	; Retired US Naval	Officer 1972-1992		

(Please continue on reverse side)

Application for (Board/Commission/Committee) Page 2

Please describe your qualifications for serving on Board/Commission/Committee: As a recently licensed
pilot, I am intimate with the latest rules and regulatory environment prescribed by the FAA and
other Federal agencies. As an owner/operator of my own airplane home based in Cottonwood, I am familiar with
many of the existing tenants, and I am aware of the activities and concerns of the airport facility.
Familiar with grants processes, local and state regulatory policies, and planning processes.
List any community service organizations or projects you have been involved with (include a brief description of activities): My work schedule has not permitted participation in local service organizations/activities. But due to my recent retirement, I have time now.
Have you ever been convicted of, or pled "no contest" to <u>any</u> crime, including any convictions that were later set aside or expunged? YES NO
Does the City of Cottonwood employ any relative of yours? YES NO
Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City? I am a resident of Cottonwood as of October 2012, and an Airport tenant since March 2014.
Signature Municipal Read Date 6 July 2015

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.

RESOLUTION NUMBER 2812

A RESOLUTION OF THE MAYOR A OF COTTONWOOD, YAVAPAI CO	OUNTY, ARIZONA, APPOINTING
A MEMBER COMMISSION AND ESTABLISHING	OF THE COTTONWOOD AIRPORT G HIS TERM OF OFFICE.
WHEREAS, a vacancy exits on the Ai	rport Commission; and
WHEREAS, it therefore is necessary requisite number of members on the Airport Cor	to fill the vacancy in order to maintain the mmission.
NOW THERFORE, BE IT RESOLVE OF THE CITY OF COTTONWOOD, YAVAI	D BY THE MAYOR AND CITY COUNCIL PAI COUNTY ARIZONA:
THAT,is here Airport Commission for a three-year term er	eby appointed a member of the Cottonwood ading September 2, 2018.
	CITY COUNCIL AND APPROVED BY THE DD, YAVAPAI COUNTY, ARIZONA, THIS
	Diane Joens, Mayor
ATTEST:	
Marianne Jiménez, City Clerk	
APPROVED AS TO FORM:	
Steven B. Horton, Esq. City Attorney	

City of Cottonwood, Arizona
City Council Agenda Communication



Print

Meeting Date: September 1, 2015

Subject: Parks & Recreation Commission Appointments

Department: Community Services

From: Richard Faust, Community Services General Manager

REQUESTED ACTION

Appointments to fill vacant seats on the Parks and Recreation Commission by resolution.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to approve Resolution 2809, appointing	to the City's Parks and Recreation
Commission for a three year term expiring September 2, 2018."	

"I move to approve Resolution 2810, appointing ______ to the City's Parks and Recreation Commission for a three year term expiring September 2, 2018."

BACKGROUND

There are currently two vacancies on the City's Parks and Recreation Commission. The Human Resources Manager advertised the vacancies for approximately 4 weeks in the local newspapers. Four applications were received by HR, and are attached.

JUSTIFICATION/BENEFITS/ISSUES

Issue: fill vacancies on the Parks & Recreation Commission according to requirements by City Code for a seven member commission body.

COST/FUNDING SOURCE

N/A.

ATTACHMENTS:				
Name:	Description:	Type:		
Ahrens_Edna_PR_Comm_Application_Redacted.pdf	Commission Applicant - Ahrens	Cover Memo		
Gottschalk Trevor PR Comm. Appllication Redacted.pdf	Commission Applicant - Gottschalk	Cover Memo		
Haton_Niles-PR_Comm_Application_Redacted.pdf	Commission Applicant - Haton	Cover Memo		
☐ Herman_Cynthia_15-06-29_Redacted.pdf	Commission Applicant - Herman	Cover Memo		
□ RES2809.docx	Resolution 2809	Cover Memo		



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LPM

CITY OF COTTONWOOD
816 NORTH MAIN STREET
COTTONWOOD, AZ 86326
Phone (928) 340-2713

Fax (928) 634-3727
Revised November 25, 2013

	CATION FOR	arks	& Reexection	Commission	1643
NAME	Ah \((Last))	(ens	DARD/COMMISSION/COM	міттее)	ie
MAILIN	IG ADDRESS		1. St. Rte 89 AL	of 302 Cotton w	
STREET	ADDRESS _	(Route or Box)	(City)	(State)	86326
		(Number & Street)	(City)	(State)	(Zip)
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Application for (Board/Commission/Committee) Page 2

Please describe your qualifications for serving on Board/Commission/Committee:
active in communisty, care a love of City & all that
it provides a would like to see this continues & improv
List any community service organizations or projects you have been involved with (include a brief
description of activities):
Citizens On Patrol - Cottonwood P. R. Nolunteer at many city
Lemeslogy hi brary events.
Cherch
Active in my housing committee
Have you ever been convicted of, or pled "no contest" to <u>any</u> crime, including any convictions that were
later set aside or expunged? YES NO
Does the City of Cottonwood employ any relative of yours?YESNO
Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?
Ves 2006 to present
165 AUG 16 present
Signature Edna M Chury Date 7/8/15

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.



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CITY OF COTTONWOOD 816 NORTH MAIN STREET COTTONWOOD, AZ 86326 Phone (928) 340-2713 Fax (928) 634-3727 Revised November 25, 2013

APPLICA	TION FOR	Parks and Rec	Commision		
		(Bo	OARD/COMMISSION/COMMITTE	*	
NAME Gottschalk			Trevor	James	
MAILING	(Last) G ADDRESS	3	(First)	(Middle)	
		(Route or Box)	(City)	(State)	(Zip)
STREET.	ADDRESS _	-1			
		(Number & Street)	(City)	(State)	(Zip)
HOME PHONE WORK/MESSAGE PHO		AGE PHONE			
EMAIL A	DDRESS:				
[NOTE: Plea	ase check below	which items of your personal in	nformation we may	release
	to the publ	ic, if requested (w	ve recommend at least one):		
		Mailing Address	Street Addre	ess	
		Home Phone	Work/Message Phone		s
DI EACE	TYPE OD I		W IN DUIZ ONLY		
PLEASE	I YPE OK I	PRINT CLEARL	Y IN INK ONLY.		
Profession	al Membersl	nips, Registrations	s, Licenses, Etc. National Asso	of Interpreters,	
		rst Aid Instructor			
Education_	High Schoo	l Diploma (MUH	S) Bachelors Degree in Exe	ercise Science (NA	AU)
Work Expe	erience Rive	Guide/Warehou	use Clerk/Driver - Arizona Ra	aft Adventures - Fl	agstaff, AZ
Park Ran	ger - Red R	lock State Park -	Sedona, AZ Parks and R	ec Crew - City of	
Cottonwo	od C	wner and Opera	ator - John's Design Center -	Cottonwood, AZ	

Application for (Board/Commission/Committee) Page 2

Please describe your qualifications for serving on Board/Commission/Committee:
Cottonwood and am now am a business owner and raising a family in old town.
I have a vested interest in the recreation opportunites in this town. Having
worked for State Parks, I have a good understanding of the parks and recreation
field and would like to contribute to the growth of p and r in Cottonwood.
List any community service organizations or projects you have been involved with (include a brief description of activities):
Mural painting and offering of site for new VV Montessori Mural on John's
Design Center
Volunteer at Red Rock State Park following my employment to assist with projcts
Have you ever been convicted of, or pled "no contest" to <u>any</u> crime, including any convictions that were later set aside or expunged? YES NO
Does the City of Cottonwood employ any relative of yours? YES NO
Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City? Syears
Signature

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.



CITY OF COTTONWOOD 816 NORTH MAIN STREET COTTONWOOD, AZ 86326 Phone (928) 340-2713 Fax (928) 634-3727 Revised November 25, 2013

APPLICATION FOR PARKS & RECREATION DEPT. - COMMISSION

$NAME_{-}$	HATON	NILES	FREDR	RICK
	(Last)	(First)	(Midd	lle)
MAILIN	G ADDRESS		A	Z 86326
	(Koute or Box)	(City)	(State)	(Zip)
STREET	ADDRESS SAME AS ABOV	Έ		2 62
	(Number & Street)	(City)	(State)	(Zip)
HOME P	PHONE928-649-1643	WORK	MESSAGE PHONE	E_SAME
EMAIL A	ADDRESS: <u>vgi_won@hotma</u>	il.com		
i v s ^{ee} te	NOTE: Please check below whi to the public, if requested (we re XX Mailing Address);	nay release
	XX Home Phone	Work/Message Phon	e XX Email Add	dress

PLEASE TYPE OR PRINT CLEARLY IN INK ONLY.

Professional Memberships, Registrations, Licenses, Etc.

SECRETARY, MINGUS MOUNTAIN REPLUBLIANS CLUB

CAPTAIN, 229 ONYX COMMITTEEMEN GROUP (Republican), FOR COTTONWOOD, AZ

Education ATTENDED DRAKE UNIVERSITY, IOWA

Work Experience

United States Navy: 1957 - 1967

Medical Malpractice Investigator from 1967 – 1985,

Owner/Operator Venture Group, Inc. (computer programming) 1985 – 2010,

Retired and moved from Sierra Madre, CA, to Cottonwood., AZ

(Application for (Board/Commission/Committee) Continued

Page 2

Please describe your qualifications for serving on Board/Commission/Committee:

Served on the Sierra Madre, California Tree Commission for approximately 3 – 4 years.

The mission was. Primarily, the preservation of the

California Oak trees. However, all trees in the City of Sierra Madre were under the management overview of the five member commission,

Including onsite physical inspection, inventory and overall management of the needs for trees in the city.

List any community service organizations or projects you have been involved with (include a brief description of activities):

See above.

Have you ever been convicted of, or pled "no contest" to <u>any</u> crime, including any convictions that were later set aside or expunged?YESXXXNO
Does the City of Cottonwood employ any relative of yours?YESXXXNO
Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City? Yes, Approximately 5 years
Signature Date JULY 1, 2015

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

Council meetings are held the first and third Tuesday of every month. Council agendas can be found under the City Council tab on the City website: www.cottonwoodaz.gov.

Recid 6/29/15



CITY OF COTTONWOOD 816 NORTH MAIN STREET COTTONWOOD, AZ 86326 Phone (928) 340-2713 Fax (928) 634-3727 Revised November 25, 2013

APPLIC	ATION FOR Park an	d Repression C	Ohmissian	
		(BOARD/COMMISSION/C	COMMITTEE)	
NAME_		Cynto		Ann
MAILIN	(Last) IG ADDRESS	(First)		Middle)
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	(Number & S	Street) (City)	(State)	(Zip)
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LIVIAIL	ADDRESS.			
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	☐ Home Phone	Work/Message	Phone	Address
	TYPE OR PRINT CLE	ations, Licenses, Etc. <u>()</u> o	ne	
Education	High School Gi	ead. Certificat	e in Cosmon	lology
Work Exp	erience <i>For nara</i>	eye of inic		

Application for (Board/Commission/Committee) Page 2

Please describe your qualifications for serving on Board/Commission/Committee: Resident of Cottonwood since Nov of 1999. I have two grand kid that are very involved in City sponsered activities that I help them with
List any community service organizations or projects you have been involved with (include a brief description of activities): Vymc, Cottomwood Middle School Volunteen as a nurse aid.
Have you ever been convicted of, or pled "no contest" to <u>any crime</u> , including any convictions that were later set aside or expunged? Does the City of Cottonwood employ any relative of yours? YES NO
Are you currently a resident of Cottonwood? If so, how long have you been a resident of the City?
Signature Date <u>6-27-2015</u>

NOTE: All applicants are strongly encouraged to attend the Council meeting at which their application will be considered. It is important for Council members to be able to assess applicants' qualifications and backgrounds during the selection process, and be able to ask questions for clarification.

Generally, the Council will conduct a brief interview process during the Council meeting.

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RESOLUTION NUMBER 2809

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY

OF COTTONWOOD, ARIZONA, APP MEMBER OF THE CITY OF RECREATION COMMISSION AND OFFICE.	COTTONWOOD PARKS AND
WHEREAS, the term of Robert D. I Recreation Commission expired August 16, 20	Richards as a member of the Parks and 015; and
WHEREAS, it therefore is necessar Commission to maintain the requisite number	ry to appoint a new member to said r of seven members;
NOW, THEREFORE, BE IT RESOLVED OF THE CITY OF COTTONWOOD, YAVAPA	D BY THE MAYOR AND CITY COUNCIL AI COUNTY, ARIZONA:
, a resident of the C member of the City of Cottonwood Parks a year term expiring September 2, 2018.	TY COUNCIL AND APPROVED BY THE
1ST DAY OF SEPTEMBER 2015.	o, invitin coolvii, mazolvii, iinc
	Diane Joens, Mayor
APPROVED AS TO FORM:	ATTEST:
Charron P. Hautan Eag	Marianna limánaz Cita Claril
Steven B. Horton, Esq. City Attorney	Marianne Jiménez, City Clerk

RESOLUTION NUMBER 2810

	CITY COUNCIL AND APPROVED BY THE OD, YAVAPAI COUNTY, ARIZONA, THIS Diane Joens, Mayor ATTEST:
MAYOR OF THE CITY OF COTTONWO	OD, YAVAPAI COUNTY, ARIZONA, THIS
MAYOR OF THE CITY OF COTTONWO	
, a resident of the	Section 2.68.030 of the City Code, City of Cottonwood, is hereby appointed a s and Recreation Commission to fill a three
NOW, THEREFORE, BE IT RESOLV OF THE CITY OF COTTONWOOD, YAVA	VED BY THE MAYOR AND CITY COUNCIL PAI COUNTY, ARIZONA:
WHEREAS, staff recommends that the best best best best and the staff of the staff o	the remaining one year term for this vacancy
WHEREAS, it therefore is necess Commission to maintain the requisite num	sary to appoint a new member to said ber of seven members; and
WHEREAS, a vacancy exists on the	Parks and Recreation Commission; and
ESTABLISHING TERM OF OFF	
ESTABLISHING TERM OF OFF	DECDE ATION COMMISSION AND
OF COTTONWOOD, YAVAPAI O A N COTTONWOOD PARKS AND I	AND CITY COUNCIL OF THE CITY COUNTY, ARIZONA, APPOINTING MEMBER OF THE CITY OF

City of Cottonwood, Arizona City Council Agenda Communication



画 Print

Meeting Date: September 1, 2015

Subject: Job Order Contract Renewal and Project Limit Increase

Department: Development Services

From: David Hausaman, Public Works Manager

REQUESTED ACTION

Renewal of the current job order contracts (JOC's) for underground/utility contracting services located in the City and surrounding utility service areas; and increasing the project limit to \$500,000.00.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to approve the final renewal of the job order contracts for underground contracting services with Arizona Northern Equipment, Tiffany Construction, and Kinney Construction Services; and to increase the per project limit under those contracts to five hundred thousand dollars."

BACKGROUND

The original contracts were awarded for a one (1) year period with the option to renew for up to three (3) additional one year periods to Kinney Construction, Tiffany Construction, and Northern Arizona Equipment on July 17th, 2012. This approval is for the third and final one (1) year extension.

If Council approves renewing this contract for the final one-year term, the contract will be extended through July 17th, 2016.

The JOC Contractors have provided excellent service throughout the term of the contract. Over the past three years a great partnership has been developed in working together to resolve any issues that have arisen.

Staff is also recommending the single project limit be increased from \$250,000.00 per project to \$500,000.00 per project. The JOC statute, A.R.S.34-605 (F) (1) states:

For job-order-contracting construction services only:

1. The maximum dollar amount of an individual job order shall be one million dollars or such higher or lower amount prescribed by the agent in an action noticed pursuant to title 38, chapter 3, article 3.1 or a rule adopted by the agent as the maximum amount of an individual job order.

The contracted price for Underground Job Order Contracting Services are determined per project and obtain the required approvals before projects are started. These expenditures are budgeted in the budget line. Any projects in an amount over \$50,000.00 will still be submitted to Council for approval, as required by the City's procurement policy.

JUSTIFICATION/BENEFITS/ISSUES

The City has numerous complex underground infrastructure projects planned and having multiple contractors available to perform this work without the need for a separate, lengthy and costly procurement process for each one is in the City's best interest. By utilizing the job order contracting delivery method for this non-emergency work, the City and its residents/taxpayers are assured that the work will be performed by licensed and pre-qualified contractors, while realizing the economic benefits associated with the competitive bidding process.

COST/FUNDING SOURCE

Water and Wastewater Capital and operations funds

ATTACHMENTS:		
Name:	Description:	Type:
D AZ Northern Equipment— JOC Underground Contracting Contract.pdf	ANE - Contract	Cover Memo
Minney Construction JOC Underground Contracting Contract.pdf	Kinney Construction - Contract	Cover Memo
D Tiffany Construction JOC Underground Contracting Contract.pdf	Tiffany Construction - Contract	Cover Memo

SPECIAL TERMS AND CONDITIONS

- Number of Contracts to be Awarded. The City intends to award up to three (3) contracts for the services described herein.
- 2. Basis for Awarding Individual Job Orders. In the event the City awards more than one (1) contract for these services, individual job orders will be awarded based upon consideration of the firm's ability to complete the work expeditiously and the proposed cost. The City intends to request price and schedule proposals from all contracted Contractors for each individual job order. However, when quoting individual job orders is impracticable, the City reserves the right to award job orders as it deems to be in its best interest.

Scope, schedule, price, and liquidated damages (if applicable) are agreed upon in a fully executed Notice to Proceed letter prior to Contractor beginning the work.

The Contractor shall be available on a five (5) day work basis throughout the term of the contract unless notified in writing by the City that this requirement may be temporarily waived due to the Contractor's approved written request or a reduced need by the City. The Contractor must be available to commence work on assignments within one week from award of an individual job order.

- 3. Contract Term and Renewal. The term of this contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Cottonwood shall have the right, as its sole option, to renew the contract for three (3) additional one (1) year periods, or portions thereof. If the City chooses to exercise this option, all terms, period with the possible exception of fee basis and minor scope additions and/or deletions.
- 4. Compensation and Method of Payment. In consideration of the performance of the services described in the Scope of Services of each individual job order and pursuant to the master Scope of Work herein, the City shall pay accordance with those same rates.

Compensation under this contract should not exceed \$250,000 per individual job order unless a waiver is requested of and granted by the Administrative Services General Manager.

The City will pay the Contractor following the submission of itemized invoice(s) for the service rendered. No payment shall be issued prior to receipt of material or service and correct invoice.

All requests for payment shall follow a format to be approved by the City Representative. Invoices shall be submitted monthly on a job-by-job basis.

- 5. Bonding Requirements. Contractor shall file with the City, prior to the time of execution of the contract and annually, if the term of this contract is extended by the City, payment and performance bonds in the forms prescribed by the City unless bonding per project. The bonds must cover all construction performed under job orders. The amount of the bonds provided by the Contractor must always be at least equal to the total amount of the contract prices for construction work under job orders issued and not complete. Contractor agrees to provide such additional bonding as may be required to satisfy this requirement, as provided under A.R.S. 34-610. Bonds may be provided as follows: annual bonds in the amount designated by the agency, or bonding per each individual job. Successful contractor(s) will designate bonding methodology prior to contract award.
- 6. Performance Rating. At the completion of each term or termination of this contract, the City will evaluate the Contractor based on performance under this contract. This rating will be used in the overall evaluation of the Contractor when applying for future work with the City.
- Audit and Inspection of Records. The Contractor shall permit the authorized representatives of the City of Cottonwood to inspect and audit any books, documents, papers, data and records relating to its performance under

the contract until the expiration of three (3) years after final payment under this contract. The City shall have the right to audit and/or examine such records at any time during the progress of this contract and shall withhold payment if such documentation is found by the City to be incomplete or erroneous.

The following access to records requirements apply to this contract:

The Contractor agrees to provide the City of Cottonwood or any of its authorized representative's access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the City of Cottonwood or any of its duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

- 8. Contract Amendments. The Administrative Services Department has the sole authority to:
 - A) Amend the contract or enter into supplemental verbal or written agreements;
 - B) Grant time extensions or contract renewals;
 - C) Otherwise modify the scope or terms and provisions of the contract.

The contract shall only be modified with the approval of the Administrative Services General Manager. Except in the case of documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Administrative Services General Manager through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

- Child/Sweat-Free Labor Policy. The Contractor shall comply with all applicable provisions of the United States 9. Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
- Federal Immigration Laws and Regulations. The Contractor warrants that it complies with all Federal 10. Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this contract by the Contractor and any subcontractor.

- (ADA) Americans with Disabilities Act. The Contractor shall comply with all applicable provisions of the 11. Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. 12101-12213, 47 U.S.C. 225 and 611, and all regulations thereto), and the Arizonans with Disabilities Act of 1992 (A.R.S. 41-1492 et seq., and all regulations pertaining thereto).
- Certification of Compliance with A.R.S. Section 35-397. By signing this contract, the Contractor certifies that 12. it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-397. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Cottonwood Procurement Code up to and including termination of this contract.

- 13. City of Cottonwood Business License. The Contractor shall maintain in current status all Federal, State, and local registrations, licenses and permits, including a City of Cottonwood business registration, required for the operation of the business conducted by the Contractor as applicable to this contract.
- 14. Arizona Law. This contract shall be governed and interpreted according to the laws of the State of Arizona.
- 15. Jurisdiction and Venue. The parties agree that this contract is made in and shall be performed in Yavapai County. Any lawsuits between the Parties arising out of this contract shall be brought in the courts of Yavapai County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 16. Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this contract is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.
- 17. Notices. All notices or demands required to be given pursuant to the terms of this contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of CITY:	In the case of CONTRACTOR:	
City of Cottonwood Public Works Department Engineering Division 1490 W Mingus Avenue Cottonwood, AZ 86326 (928) 634-8033	Company Name:Contact:	
	Address:	
Notions about the		

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

GENERAL CONDITIONS FOR CONSTRUCTION

1. DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Administrative Services General Manager - - the person acting as Director of the City's Purchasing Manager and who has authority to award and revise City solicitations and contracts for construction, construction services, and construction-related services as necessary.

Amendment - written or graphic instrument issued prior to the due date which clarifies, corrects or changes the Solicitation.

Architect/Engineer - the person licensed to practice architecture/engineering by the State of Arizona and who is identified as the Architect/Engineer of Record. May be utilized to provide construction administration services.

Bonds - bid, performance and payment bonds and other instruments of security.

Change Order - a document approved by the City Contract Representative and which is signed by the Contractor and the City's Administrative General Manager or duly authorized designee and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Completion time, issued on or after the effective date of the Contract.

City - means the City of Cottonwood, Arizona, a municipal corporation.

City Contract Representative - the City official administering the Contract for the City of Cottonwood.

Completion Time - the number of consecutive calendar days agreed to by the City and Contractor for completion of the Work, which may be revised by written Change Order.

Construction – the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any real public property.

Construction-Manager-At-Risk – a project delivery method in which there is a separate contract for design services and a separate contract for construction services, with design and construction taking place in sequential preconstruction services may be included.

Construction Services – either of the following for construction-manager-at-risk, design-build and job- ordercontracting project delivery methods:

a) construction excluding corriect the services of the s

- a) construction, excluding services, through the construction-manager-at-risk or job-ordercontracting project delivery methods;
- b) a combination of construction and, as elected by the City, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services.

Contract - the written agreement and all associated attachments, drawings, amendments and change orders executed between the City and the Contractor covering the Work to be performed.

Contract Price - the amount payable by the City to the Contractor for satisfactory completion of the Work, and as specified in the Contract as may be amended by written Change Order, or, in the case of a job- order contract, in the Notice to Proceed.

Contract Officer - the City official who conducts the solicitation process to secure a Contractor for the Work and who acts under the authority and direction of the City's Administrative Services General Manager and in accordance with the Cottonwood Procurement Code.

Contractor - the person, firm or corporation with whom the City has entered into the Contract.

Design-Build – the process of entering into and managing a contract between the City and a contractor in which the Contractor agrees to both design and build a structure and in which design and construction services may be in sequential or concurrent phases, and which may include finance services, maintenance services, operations services, design services and preconstruction services.

Design Services - architect services, engineer services or landscape architect services.

Drawings - the graphic and pictorial portions of the contract, wherever located and whenever issued, showing the configuration, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

Estimate for Payment - a form furnished by the City or an approved form submitted by the Contractor in lieu of city furnished form, and is required to be used when submitting requests for payments for work actually performed and materials supplied during a an agreed-to preceding period of time.

Field Order - a written order or directive issued by the City Contract Representative that orders minor changes in the Work.

Final Completion Date - the calendar date when the Work is one hundred percent (100%) complete as determined by the City.

Job-Order-Contracting – a project delivery method in which the contract is a requirements contract for indefinite quantities of construction and in which specified job orders are issued during the contract and may include finance services, maintenance services, operations services, preconstruction services and design services.

Liquidated Damages – a sum set forth in the Contract documents that will be deducted from any monies due to the Contractor, not as a penalty, but in lieu of actual damages for late completion of the work.

Maintenance Services – routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.

Notice to Proceed - a written notice given by the City to the Contractor fixing the date on which the Completion time will commence and upon which the Contractor shall start to perform the Contractor's obligations under the Contract. In the case of a job order, it may also contain the specifications exclusive to the job order as well as consideration for the Contractor.

Public Inspector(s) - that person or persons provided by the public authorities having code jurisdiction and who perform day-to-day inspections of the Work for compliance with applicable codes.

Schedule of Values - a schedule submitted by the Contractor setting forth the values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City Contract Representative may require. This schedule must be submitted before the Contractor submits its first application for progress payment and shall be used as a basis for reviewing and approving payments to the Contractor.

Shop Drawings - drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the Contractor to illustrate, in detail, how some portion of the Work shall be fabricated and/or installed, and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a supplier and submitted by the Contractor to illustrate material or equipment for some portion of the Work.

Specifications - those portions of the Contract, or Notice to Proceed if a Job Order, consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Substantial Completion – a written declaration of the date upon which the City, in its sole discretion, determines the Work is substantially complete such that the City has beneficial use and/or occupancy. Upon substantial completion, the right of the City to assess liquidated damages for time after the date of substantial completion ceases, except as allowed for failure to meet final completion within thirty days of substantial completion.

Cottonwood Procurement Code – in addition to applicable State statutes and applicable Federal regulations and requirements, the municipal ordinance that governs the construction services contracting process as well as contract administration processes including the resolution of contract claims, disputes and controversies.

The Work - the entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract, or, in the case of a job-order contract, within individual Notices to Proceed. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract and/or Notice to Proceed, as appropriate.

2. THE CONTRACT ITS EXECUTION AND INTENT

2.1 The Contract

- 2.1.1 The documents in the Contract include any amendments, drawings, change orders and approved Contractor submittals.
- 2.1.2 The Contract comprises the entire agreement between the City and the Contractor concerning the Work and supersedes any prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by an instrument in writing and fully executed by the authorized parties to the Contract.

2.2 Intent of the Contract

- 2.2.1 The intent of the Contract is to include all labor, materials, equipment, transportation and all other costs and expenses necessary for the proper execution and completion of the Work by the Contractor.
- 2.2.2 The Contractor shall take no advantage of any apparent error or omission in the plans, estimated quantities or specifications. In the event the Contractor discovers such an error or omission after contract award, the Contractor shall immediately notify the City Contract Representative. The City Contract Representative shall then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the contract.
- 2.2.3 The Contract shall be construed in accordance with the laws of the State of Arizona, and all such laws regulating the construction of public works by the City are hereby incorporated herein by reference and made a part hereof.
- 2.2.4 Materials or work described in words, which have a well-known technical or trade meaning, shall be held to refer to such recognized standards.
- 2.2.5 The organization of the Contract into divisions, sections or articles is merely for the purpose of convenient reference, and neither the headings nor divisions shall have any legal or Contractual significance and shall not control the division of the Work by the Contractor among the various subcontractor or trades.
- 2.2.6 The Contractor shall include all applicable utility fees, permits, licenses, etc. in each estimate or proposal submitted.

2.3 Execution

2.3.1 Execution of the Contract by the Contractor is a representation that the Contractor has thoroughly examined the Contract.

2.4 Ownership of the Contract

2.4.1 The Contract, including, but not limited to, the drawings and specifications, is the property of the City and is not to be used by the Contractor or any subcontractor on other projects outside the scope of the Work without the express written consent of the City.

3. ADMINISTRATION OF THE CONTRACT

3.1 Lines of Authority and Communications

- 3.1.1 The City's Administrative Services General Manager is the City official with overall authority and responsibility for the award and administration of City Contracts. The Administrative Services General Manager or their designated Finance Department representative after consultation with the City Contract Representative has the ultimate authority to resolve disputes concerning Contract performance and to stop the Work whenever such stoppage may be necessary to ensure the proper execution of the Work.
- 3.1.2 The City Contract Representative is the designated representative of the particular City department for which the Work is being constructed (the "user department") or the City department which is responsible for the oversight of the work.
- 3.1.3 Day-to-day administration of the Contract is the responsibility of the City Contract Representative. The City Contract Representative is the City's representative during the prosecution of the Work and shall act as surveillance and technical advisor for the City. The City Contract Representative duties are more fully described in Section 3.2 of this Article.
- 3.1.4 The Contractor shall supervise and direct the Work and shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work, unless the Contract gives other specific instructions concerning these matters. The Contractor's duties and responsibilities are more fully described in Article 4 of these Contract conditions.
- 3.1.6 Except where the Contract otherwise provides or where direct communication has been specifically authorized, the Contractor shall initially communicate with the City Contract Representative.

3.2 City Contract Representative's General Authority and Responsibilities

3.2.1 Unless the Contractor is responsible for the design of the Work, the City Contract Representative shall furnish to the Contractor, free of charge unless it is provided otherwise in the Contract, up to three copies of drawings, specifications and instructions available for the execution of the Work. The City Contract Representative may furnish additional clarifications or interpretations in writing or by drawings as may be necessary for the proper progress and execution of the Work. Such additional clarifications and interpretations shall be furnished with reasonable promptness, and the Contractor shall not do work without drawings or written clarifications where needed. All drawings, specifications and copies thereof furnished by the City Contract Representative are City property. They are not to be used on other work and, with the exception of the signed Contract, and are to be returned to the City Contract Representative at the completion of the Work.

- 3.2.2 The City Contract Representative shall make general surveillance of the Work. By making sufficient periodic visits to the site of the Work, the City Contract Representative will become thoroughly familiar with the progress and quality of completed portions of the Work, and will assess if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract.
- 3.2.3 The City Contract Representative will decide all questions which may arise as to the quality and acceptability of materials furnished and Work performed and as to the rate of progress of the Work, and all questions which may arise as to the interpretation of the drawings and specifications.
- 3.2.4 The City Contract Representative shall have the authority to reject work that is not in conformity with the Contract and to order additional inspections and testing of the Work. The City Contract Representative's failure during the progress of work to discover or reject materials or work not in accordance with the plans, specifications or contract documents shall not be considered an acceptance of the work or materials or a waiver of defects. Neither the failure of the City Contract Representative to properly perform inspections, tests or approvals required by the contract documents nor the activities or duties of the City Contract Representative in the administration of this contract shall relieve the Contractor from the contractor's responsibility for the means, methods, techniques, sequences or scheduling of the construction or the obligation to perform the work in strict accordance with the contract documents.
- 3.2.5 The City Contract Representative shall conduct an initial review of, and approve or deny, written Change Orders submitted by the Contractor, and may prepare Change Orders and provide field clarifications and corrections. All Change Orders shall be approved by the Administrative Services General Manager or their designee prior to any work being done. However, in emergencies endangering life or property, the City Contract Representative may take action and issue orders which are deemed necessary to avert the loss of life or property.
- 3.2.6 The City Contract Representative, pursuant to Article 10 of these General Conditions, shall make recommendations to the Contract Officer as to all claims of the Contractor.
- 3.2.7 The City Contract Representative will review and process the Contractor's monthly Estimates for Payment, as more fully set forth in Article 7 of these General Conditions.
- 3.2.8 The City Contract Representative will conduct inspections to determine the dates of Substantial Completion and Final Completion and will certify such dates to the Contract Officer.
- 3.2.9 The City Contract Representative will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility.

3.3 Public Inspections

- 3.3.1 Unless otherwise specifically provided in the Contract, Public Inspectors who perform day-to-day inspections of the Work for compliance with applicable codes will have authority to require compliance with drawings, specifications and applicable codes, and may provide clarification of any unspecified or unclear item or situation.
- 3.3.2 If the drawings or specifications, laws, ordinances, or any public authority requires any work to be specially tested or approved, the Contractor shall give the City Contract Representative timely notice of its readiness for inspection. If the inspection is by an individual, authority or entity other than the City Contract Representative or the Public Inspectors, the Contractor shall advise the City Contract Representative of the date fixed for such inspection.

3.3.3 All tests, inspections or approvals required to be performed by the City Contract Representative, Public Inspectors, or other authorities or entities shall not relieve the Contractor of their obligation to perform the Work in accordance with the Contract.

3.4 Special Inspections and Testing of Materials

- 3.4.1 All equipment and materials used in the construction of the Work, especially those upon which the strength and durability of the structure may depend, will be subject to adequate inspection and testing in accordance with accepted standards, to establish conformance with specifications and suitability for the use intended, as determined by the City Contract Representative.
- 3.4.2 The performance of tests and the engagement of testing laboratories or agencies must have the prior approval of the City Contract Representative. Except as provided in subsection 3.4.3, the in addition to the Contract price for construction.
- 3.4.3 When initial tests indicate that any portion of the Work is not in conformance with the Contract because of faulty workmanship, the Contractor shall be required to pay for necessary re-tests. When initial tests indicate that the work is in conformance with the Contract, any re-testing that's ordered by the City shall be paid for by the City.

4. THE CONTRACTOR'S DUTIES AND RESPONSIBILITIES

4.1 Contractor's Review of Contract and Site Conditions

- 4.1.1 It shall be the duty of the Contractor to carefully study and compare all drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative.
- 4.1.2 The Contractor shall be required to use, for data and dimensions, figures marked on the drawings in preference to what the drawings may measure to scale; but in the absence of figured dimensions, scale dimensions may be used with the prior written concurrence of the City Contract Representative. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Errors or inconsistencies shall be reported to the City Contract Representative immediately. It is the responsibility of the Contractor to provide BLUESTAKE verification of underground utilities on which may impact construction site.
- 4.1.3 Change orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications unless prior notification is given by the Contractor to the City Contract Representative.
- 4.1.4 The Contractor shall perform the Work in accordance with the Contract and with shop drawings, product data and samples that have been approved by the City Contract Representative.
- 4.1.5 Notwithstanding the above provisions, if the Contractor is responsible for the design of the Work, the Contractor shall ensure the accuracy and completeness of the drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative and shall be responsible for any required corrective action.

4.2 Contractor's Supervision

- 4.2.1 The Contractor shall efficiently and continuously supervise and direct the Work, using its best skill and attention. Unless the Contract specifically provides otherwise, the Contractor shall be solely responsible for and shall exercise control over construction means, methods, techniques and procedures and shall coordinate the sequences of all portions of the Work.
- 4.2.2 The Contractor shall ensure that the key personnel submitted in response to the Request for Qualifications and assigned to this Contract are available throughout the term of the Contract. In the event that the Contractor requests substitution of key personnel, the Contractor shall obtain prior approval from the City for key personnel substitution. The Contractor shall ensure that substituted personnel are equally qualified and capable. Information on the qualifications of proposed substitutes shall be provided to the City for its consideration and approval prior to substitution taking place.
- 4.2.3 The Contractor agrees that it is as fully responsible to the City for the acts and omissions of its subcontractors and of persons, either directly or indirectly employed by the Contractor, as it is for the acts and omissions of persons directly employed by the Contractor.

4.3 Materials and Labor; Warranty

4.3.1 Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, equipment, tools, construction equipment and machinery, water, gas, heat, utilities, transportation, and other facilities and services necessary for the execution, completion and delivery of the Work within the specified Completion Time.

4.3.2 The Contractor shall pay all applicable taxes associated with the Work.

- 4.3.3 The Contractor warrants to the City that all materials and equipment furnished under the Contract will be new unless otherwise specified, and that all of the Work will be of good quality, free from faults and defects and in conformance with the Contract. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.
- 4.3.4 The Contractor shall furnish all materials required to complete the work, except those specified to be furnished by the Agency. The Contractor shall receive, inventory, store, inspect, protect, distribute, and install Agency furnished material unless otherwise specified. The cost of handling and placing all materials after they are delivered to the Contractor shall be considered as included in the contract price for the item in connection with which they are used. The Contractor shall be held responsible for all material delivered to the contractor. Deductions shall be made from any monies due the Contractor to make good any shortages or deficiencies, from any cause whatsoever and for any damage which may occur after such delivery, and for any late delivery charges.
- 4.3.5 The Contractor will be held to furnish all work as specified in the Contract. After a price proposal for the Work has been accepted by the City, changes of brand named, trade named, trademarked, patented articles, or any other substitutions will be allowed only by written order signed by the City Contract Representative. Unless otherwise agreed to via Change Order, the City shall receive all benefits of the difference in costs.
- 4.3.6 Materials not conforming to the requirements of the specifications, whether in place or not, shall be rejected and shall be promptly removed from the site of the work, unless otherwise directed by the City Contract Representative. No rejected material, the defects of which have been corrected, shall be returned to the work site until such time as approval for its use has been given by the City Contract Representative.

4.4 Construction Schedules and Submittals

- 4.4.1 Before commencing the Work, the Contractor shall provide the City Contract Representative with a construction schedule for the Work, fixing the dates at which various predetermined events shall occur in order to promote a timely completion of the various parts of the Work in accordance with the Contract. The schedule may be revised from time to time as may be required by conditions of the Work, but shall not exceed time limits, or any extensions thereof, set forth in the Contract or in the individual job order, as appropriate.
- 4.4.2 The Contractor shall prepare and keep current for the City Contract Representative's approval, a schedule of submittals which shall be coordinated with the Contractor's construction schedule and allow the City Contract Representative reasonable time to review such submittals.
- 4.4.3 After review, the City Contract Representative, with reasonable promptness, shall approve these shop or setting drawings, product data, samples and sequences for conformance with the design concept of the project, the approved construction schedule, and other requirements of the Contract.
- 4.4.4 The Contractor shall make any corrections required by the City Contract Representative and resubmit such corrected materials to the City Contract Representative for approval. Any correction or change that will result in a design or function change or in an increase or decrease in the Contract price must also receive the prior approval of the City's Administrative Services General Manager or their designee.
- 4.4.5 The Contractor shall perform no portion of the Work requiring submittal and review of shop drawings, product data, samples or schedules until the respective submittals have been approved by the City Contract Representative, and shall not deviate from such submittals after final approval by the City Contract Representative.
- 4.4.6 As-builts documents must be provided to the City by the Contractor within thirty days of substantial completion. The City reserves the right to withhold final payment until complete asbuilts have been received in good order by the City Contract Representative.

4.5 Documents and Samples at the Work Site

4.5.1 Unless otherwise directed by the City's Contract Representative, the Contractor shall maintain at the Work site a complete file of the drawings, specifications, amendments, change orders and other approved modifications, in good order and marked to reflect changes and selections made during construction, together with all approved shop drawings, product data, samples and similar required submittals. Such files shall be made available to the City Contract Representative and Public Inspectors upon request.

4.6 Protection and Use of Site - (Signs, Utilities, Water, Sanitation, Traffic, etc.)

- 4.6.1 The City will provide land, rights-of-way and easements for all work specified in the Contract. The Contractor shall confine their apparatus, the storage of materials and the operations of its workmen to limits indicated by law, ordinances, permits or directions of the City Contract Representative, and shall not unreasonably encumber the premises with their material and equipment.
- 4.6.2 Contractor shall prevent any damage to pipes, sewers, computer and phone lines, conduits or other structures, including public and/or private lawns, gardens, shrubbery and trees encountered in the Work, and shall hold the City harmless from damages for any injury done to such pipes, structures or property during the course of the Work.

- **4.6.3** Work shall be accomplished so that there will be a minimum of traffic interruption and inconvenience, discomfort or damage to the public.
- 4.6.4 The Contractor shall supply safe drinking water for all Contractor employees at the Work site.
- 4.6.5 If archaeological, historical or paleontological features are encountered or discovered during any activity related to the Work, the Contractor shall stop work immediately at that location and shall take all reasonable steps to secure the preservation of those features. The City Contract Representative will make arrangements for the proper treatment of the affected portion of the Work site. The Contractor shall not resume work in the affected portion without the prior approval of the City Contract Representative. Extensions in the Completion time for delays resulting from the discovery of archaeological, historical or paleontological features, if such discovery results in a delay to the progress of the Work, may be claimed by the Contractor in accordance with Article 10 of these General Conditions.

4.7 Cleaning Up

- 4.7.1 The Contractor shall at all time keep the construction site and surrounding area free from accumulations of waste material or rubbish caused by operations under the Contract. Upon completion of the Work, the Contractor shall remove all rubbish, tools, equipment, scaffolding and surplus materials from the site and surrounding areas and leave the area "broom clean" or its equivalent, unless otherwise instructed by the City Contract Representative.
- 4.7.2 If the Contractor fails to clean up as provided in the Contract, the City may do so and the cost thereof shall be charged against the Contractor.

4.8 Emergencies

- 4.8.1 In an emergency affecting the safety of life or property, the Contractor, without special instruction or authorization from the City Contract Representative, is hereby permitted, authorized and directed to act at its own discretion to prevent threatened loss or injury.
- 4.8.4 Except in the case of an emergency requiring immediate remedial work, any work performed after regular working hours, on Saturdays, Sundays or legal holidays shall be performed without additional expense to the City unless such work has been specifically requested and approved by the City Contract Representative.
- 4.8.5 The Contractor shall file with the City Contract Representative the names, addresses and telephone numbers of their employees who can be contacted at any time in case of emergency. These Contractor representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by the City or the Public Inspectors.

4.9 Permits, Fees and Notices

- 4.9.1 The Contractor shall, at their expense, obtain all necessary permits and licenses for work performed under the Contract, and shall give all necessary notices required by laws, ordinances, rules, regulations and lawful orders of public authorities pertaining to performance of the Work, public health and safety.
- 4.9.2 If the Contractor knowingly performs work which is not in compliance with such laws, ordinances, rules, regulations or orders, without such notice to the City Contract Representative, the Contractor shall assume full responsibility for such Work and shall bear all costs attributable thereto.

4.10 Royalties and Patents

- 4.10.1 The Contractor shall pay all royalties and license fees.
- 4.10.2 The Contractor and the surety shall defend any suit or proceeding brought against the procuring agency, during the prosecution or after the completion of the work, based on a claim that manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, furnished or used under this Contract constitutes an infringement of any patent, trademark, or copyright, and the Contractor shall pay all damages and costs awarded therein, against the procuring agency and any affected third party or political subdivision. If manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, is in such suit held to constitute infringement and if manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, is enjoined, the Contractor shall, at its own expense, either procure for the procuring agency the right to continue manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, or, subject to Engineer's approval, replace same with noninfringing method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part, or modify it so it becomes noninfringing.
- 4.10.3 If appropriate, the Contractor shall furnish the City Contract Representative satisfactory evidence of patent licenses or patent releases covering City-specified proprietary materials, equipment, devices or processes, as the case may be.

4.11 Protection of Persons and Property

- **4.11.1** The Contractor shall be responsible for initiating, maintaining, supervising and directing all safety precautions and programs in connection with the performance of the Contract.
- 4.11.2 The Contractor shall be responsible for the protection of all Work until completion and final payment is made, including any material or equipment to be incorporated whether in storage on or off the Work site.
- 4.11.3 The Contractor shall, at their own expense, replace damaged or lost material, or repair damaged parts of the Work or of other property at the work site or adjacent thereto, and the Contractor and their sureties shall be liable therefore.
- 4.11.4 The Contractor shall assume all risks from floods and casualties and shall make no claim for damages for delay from such causes. However, a reasonable extension of time on account of such delays may be allowed, subject to the conditions contained in Article 6 of these General Conditions.
- 4.11.5 In the event the Contractor encounters on the work site material reasonably believed to be a hazardous material, such as asbestos or polychlorinated biphenyl (PCB), the Contractor shall immediately stop work in the area affected and report the condition to the City Contract Representative.
- 4.11.6 The Contractor shall take all necessary precautions for the safety of employees on the work site and other persons who may be affected thereby, and shall comply with all applicable provisions of Federal, State and Municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. The Contractor shall erect and properly maintain at all times, as required by the condition and progress of the Work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by such features of construction as

protruding nails, hod hoists, well holes, elevator hatchways, scaffolding, window openings, stairways and falling materials.

4.11.7 The Contractor warrants it is fully familiar and shall comply with all of the safety requirements of the Occupational Safety and Health Act (29 U.S.C. Sections 641-678, or as amended or recodified from time to time). Also the Hazard Communication Act relating to the use of hazardous materials (29 C.F.R. 1910-1200, or as amended or recodified from time to time), as promulgated by the Federal Government and as implemented by the State of Arizona, and that it will be solely responsible for all fines and penalties provided for by law for any violation of such Act and, furthermore, shall require all subcontractors to comply with such Acts and with the provisions of this section. Any claims arising out of alleged violations of such Acts are covered by the indemnification set forth in Section 4.12.

4.12 Indemnification and Insurance

4.12.1 To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Cottonwood, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the extent arising from the acts or omissions of the City.

4.12.2 The Contractor Agrees to:

- .1 Obtain insurance coverage of the types and amounts required in this subsection and keep such insurance coverage in force throughout the life of the Contract. The Contractor will provide satisfactory certificates of the required coverage to the Contracting Officer before beginning the Work. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation or reduction in coverage in any policy.
- .2 Include the City as an additional insured on the General Liability Insurance and Automobile Liability Insurance policies with respect to liability arising out of the performance of the Work. Policies shall contain a waiver of subrogation against the City. The Contractor agrees that the insurance required hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- .3 Provide and maintain minimum insurance coverage as follows:

Coverage Afforded	Limits of Liability
Worker's Compensation	Statutory
Commercial General Liability	\$1,000,000
Products & Completed Operation	ns \$1,000,000
Blanket Contractual	\$1,000,000
Explosion, Collapse & Undergro	ound Hazard \$1,000,000
Premises-Operations	\$1,000,000
Personal and Advertising Injury	\$1,000,000

\$1,000,000

Automobile Liability

Insurance Including:

- 1. Non-Owned
- 2. Leased
- 3. Hired Vehicles

Builder's Risk Insurance

Contract Value (Less Site Preparation)

Including: Fire, Extended Coverage, Vandalism and Malicious Mischief, and Theft.

Builder's Risk insurance shall be required on all vertical construction.

The City reserves the right, at its sole option, to furnish the Builder's Risk Insurance at the City's expense in the event that the City exercises such right, Contractor shall reduce General Conditions and overhead accordingly.

.4 In the event any of the Work is subcontracted, the Contractor shall require the subcontractor to provide Workers' Compensation insurance for all of the subcontractor's employees engaged in the Work, unless such employees are covered by the protection afforded by the Contractor's Workers' Compensation insurance. In case any class of employees engaged in hazardous work under the Contract is not protected under the Workers' Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's general liability insurance for the protection of such of their employees as are not otherwise protected.

5. SUBCONTRACTS AND SEPARATE CONTRACTS

5.1 Subcontracts

- 5.1.1 The Contractor shall ensure that the assigned to this Contract are available throughout the term of the Contract. In the event that the Contractor requests substitution of subcontractors, the Contractor shall obtain prior approval from the City for subcontractor substitution. The Contractor shall ensure that substituted subcontractors are equally qualified and capable. Information on the qualifications of proposed substitutes shall be provided to the City for its consideration and approval prior to substitution taking place.
- 5.1.2 In job-order-contracting, by appropriate written agreement, the Contractor agrees that each subcontractor has been notified in writing of the negotiated amount or coefficient agreed to for billing purposes. Furthermore, by appropriate written agreement, the Contractor agrees that each subcontractor shall be bound to the Contractor by the terms of this Contract. In the event of a conflict between the substance of a written subcontract and the language of this Contract, the language of this Contract shall prevail.
- 5.1.3 Contractor shall ensure that each subcontract shall preserve and protect the rights of the City under the Contract with respect to the work to be performed by the subcontractor. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with sub-subcontractors. In this connection, the Contractor shall make available to each subcontractor, prior to execution of any subcontract, copies of the Contract provisions to which the subcontractor will be bound. Subcontractors shall also make copies of applicable portions of the Contract available to their respective subcontractors.
- 5.1.4 Each subcontract will require the subcontractor to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment to the City in a timely manner, including any claims for extras, extensions of time, and damages for delays or otherwise to the Contractor in the manner provided in the Contract for like claims by the Contractor upon the City.
- 5.1.5 The Contractor further agrees:

- .1 To be bound to the subcontractor by all the obligations that the City assumes to the Contractor under this Contract, and by all provisions thereof affording remedies and redress to the Contractor from the City.
- .2 To promptly pay the subcontractor in accordance with applicable State statute.
- .3 That, at all times, the subcontractors' total payments shall be proportionate to the value of the labor and materials provided by them. Payment may be preconditioned upon the subcontractors providing the Contractor with requested significant partial or final lien waivers.
- .4 To pay the subcontractor to such extent as may be provided by the Contract or the subcontract, if either of these provides for earlier or larger payments than the above.
- .5 To ensure timely payment to subcontractors for their work as performed and for materials fixed in place, less any applicable retention, despite any delay by the City in making payments to the Contractor for any cause not the fault of the subcontractor.
- .6 To share or forward, as appropriate, with its subcontractors or, as appropriate, with the City, any fire insurance money received by the Contractor under the insurance provisions of the Contract.
- .7 That no claim for services rendered or materials furnished by the Contractor to the subcontractor shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claim originated.
- .8 To give the subcontractor an opportunity to be present and to submit evidence in any Contractual claim, controversy or dispute.
- 5.1.7 Nothing in this Article shall create any obligation on the part of the City to pay to, or to see to the payment of, any sums to any subcontractor, except as may otherwise be required by law.
- 5.1.8 Each subcontract agreement for a portion of the Work is hereby assignable by the Contractor to the City provided that:
 - .1 Assignment is effective at the sole option of the City and only upon termination of the Contract for cause pursuant to Article 9 of these General Conditions, and only for those subcontract agreements which the City determines to accept by notifying the subcontractor in writing, and
 - .2 Assignment is subject to the prior rights of the surety obligated under the Bonds relating to the Contract.

5.2 Separate Contracts

- 5.2.1 The City reserves the right to perform construction or operations related to the Work with the City's own forces and to let separate Contracts in connection with other portions of the Work or other construction or operations on the Work site.
- 5.2.2 The Contractor shall afford other Contractors on the Work site reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with theirs.

- 5.2.3 The City Contract Representative shall coordinate the activities of the City's own forces and of each separate Contractor with the work of the Contractor. The Contractor and all other Contractors on the Work site shall be required to review their construction schedules and cooperate with the City Contract Representative in coordinating the various portions of the Work with the schedules of such separate contractors.
- 5.2.4 If any part of the Contractor's work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the City Contract Representative any defects in such work that render it unsuitable for continuance of the Contractor's Work. Failure to inspect and report may constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's Work, except as to defects not then reasonably discoverable.
- 5.2.5 Costs caused by the Contractor because of delays or by improperly timed activities or defective construction shall be borne solely by the Contractor.
- 5.2.6 If the Contractor causes damage to any separate contractor on the site, the Contractor, upon due notice, agrees to settle with such separate contractor by agreement or arbitration, if he will so settle. If such separate contractor sues the City on account of any damage alleged to have been so sustained, the City shall notify the Contractor, who shall defend such proceedings and, if any judgment against the City arises therefrom, the Contractor shall pay or satisfy it.
- 5.2.7 Should separate contractors on the Work cause any damage, cost or loss to the Contractor, the City shall not be held responsible or liable therefore in any way other than extensions of completion time in accordance with Article 6 of these General Conditions.

6. TIME FACTORS; LIQUIDATED DAMAGES

6.1 Time

- **6.1.1** Unless otherwise provided in the Notice to Proceed, the Completion Time is the number of calendar days, including authorized time extensions, specified for completion of the Work.
- 6.1.2 Completion Time shall commence on the day specified in the Notice to Proceed. The date shall not be postponed on account of the failure of the Contractor, or of any of its subcontractors to take any action required to commence the Work.
- **6.1.3** The date of Substantial Completion is the date certified by the City Contract Representative pursuant to Subsection 7.4.1 of Article 7 of these General Conditions. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.
- 6.1.4 The term "day" as used in the Contract shall mean calendar day.
- 6.1.5 By execution of the Contract documents, or by concurrence with the Notice to Proceed in the case of a job order, the Contractor acknowledges that the time described is a reasonable period for a competent Contractor to complete the Work.
- 6.1.6 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the agreed upon time frame. If the Contractor is delayed on any portion of the Work for any reason whatsoever, it shall expeditiously proceed on other portions of the Work which are not affected by such delay.

6.2 Liquidated Damages

- 6.2.1 The amount of liquidated damages, if applicable, shall be as specified in the Contract documents, or, in the case of a job-order, in the Notice to Proceed.
- 6.2.2 The Contractor has been put on notice that the City shall enforce the liquidated damages set forth in the Contract documents or Notice to Proceed.
- 6.2.3 The Contractor agrees that the City will incur damages if the Contractor fails to complete the Work within the Completion time or any approved extensions thereof and that the liquidated damages specified in the Contract or, in the case of a job-order, in the Notice to Proceed, represents a fair and equitable approximation of the City's damages.

Each calendar day that the Contractor shall fail to achieve Substantial Completion after the calendar date agreed to for the completion of the Work provided for in the Contract, the sum set forth in the Contract documents will be deducted from any monies due the Contractor, not as penalty, but as liquidated damages; provided however, that due account will be taken of any adjustments of the Completion time for the completion of the work allowed under the Contract.

Permission allowing the Contractor to continue and finish any part of the Work after the time fixed for its completion or after the date to which the time for completion may have been extended shall in no way operate as a waiver on the part of the City of any of its rights under the Contract.

Once substantial completion is granted, the Contractor shall achieve final completion within thirty (30) calendar days, unless otherwise agreed upon. If final completion does not occur within the agreed upon number of days, liquidated damages will commence on the first day after the agreed days, until final completion occurs.

6.3 Delays and Time Extensions

6.3.1 It is agreed that the City's only liability for any delay from any cause shall be limited to granting a time extension to the Contractor and that no extended general conditions for any delay will be applicable unless agreed to by the City. There is no other obligation, express or implied, on the part of the City to the Contractor for delay from any cause.

6.3.2 Force Majeure

- .1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means a major occurrence that is beyond the control of the parties affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a sub-contractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.
- .2 If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall immediately notify the other party in writing of such delay of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 6.3.3 The completion time shall be extended when delay in completion of the Work by either the Contractor or the subcontractors is due to any preference, priority or allocation order duly issued by the Federal Government.
- 6.3.4 Time extensions shall only be granted for delays caused by the City, changes authorized in accordance with Article 8 of this agreement, or delays pursuant to sections 6.3.2 and 6.3.3.
- 6.3.5 Should a dispute arise between the Contractor and the City regarding a delay or time extension, the Contractor shall continue progress on the Work until the dispute is resolved.

7. PAYMENTS TO THE CONTRACTOR

7.1 Contract Price; Request for Payment; Schedule of Values

- 7.1.1 The Contract amount or coefficient stated in the Contract documents or, in the case of a job order, in the Notice to Proceed, plus or minus any authorized adjustments, is the amount payable by the City to the Contractor for performance of the Work under the Contract or for a specific job order.
- 7.1.2 During the course of construction, the Contractor shall request payment for work actually performed during the preceding month or some other time period as mutually agreed to, using "ESTIMATE FOR PAYMENT" forms, which are furnished by the City or a City Contract Representative. A schedule of values and an updated project schedule shall accompany the request for payment.

7.2 Certification and Payment

- 7.2.1 The City by mutual agreement may make progress payments on Contracts of less than ninety days and shall make monthly progress payments on all other Contracts as provided for in this paragraph. Payment to the Contractor on the basis of a duly certified and approved estimate for payment of the work performed during the preceding calendar month under the Contract may include payment for material and equipment. An estimate of the work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the City or the City's designee prepares and issues a specific written finding setting forth those items in detail in the estimate of the work that are not approved for payment under the Contract. The City may withhold an amount from the progress payment sufficient to pay the expenses the City reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before Thirty days after the estimate of the work is certified and approved. The estimate of the work shall be deemed received by the City on submission to any person designated by the City for the submission, review or approval of the estimate of the work.
- 7.2.2 On completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, except as qualified in paragraph 7.2.5, payment may be made in full, less authorized deductions. In preparing estimates, the material and equipment delivered on the site to be incorporated in the job shall be taken into consideration in determining the estimated value by the architect, engineer or other person, as specified in the Contract.
- 7.2.3 The Contractor shall pay to the Contractor's subcontractors or material suppliers and each subcontractor shall pay to the subcontractor's subcontractor or material supplier, within seven days of receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed the Contractor or subcontractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest, except that no Contract for construction services may materially alter the rights of any Contractor, subcontractor or material supplier to receive prompt and timely payment as provided under this section. The payments to subcontractors or material suppliers shall be based on payments received pursuant to this section.

Any diversion by the Contractor or subcontractor of payments received for work performed on a Contract, or failure to reasonably account for the application or use of those payments, constitutes grounds for disciplinary action by the Registrar of Contractors. The subcontractor or material supplier shall notify the Registrar of Contractors and the City in writing of any payment less than the amount or percentage approved for the class or item of work as set forth in this section.

- 7.2.4 A subcontractor may notify the City in writing requesting that the subcontractor be notified by the City in writing within five days from payment of each progress payment made to the Contractor. The subcontractor's request remains in effect for the duration of the subcontractor's work on the project.
- 7.2.5. Nothing in this section prevents the Contractor or subcontractor, at the time of application and certification to the City or Contractor, from withholding the application and certification to the City or Contractor for payment to the subcontractor or material supplier for unsatisfactory job progress, defective construction work or materials not remedied, disputed work or materials, third party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor to make timely payments for labor, equipment and materials, damage to the Contractor or another subcontractor, reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum or a reasonable amount for retention.
- 7.2.6 If any payment to a Contractor is delayed after the date due interest shall be paid at the rate of one per cent per month or fraction of a month on the unpaid balance as may be due.
- 7.2.7 If any periodic or final payment to a subcontractor is delayed by more than seven (7) days after receipt of the periodic or final payment by the Contractor or subcontractor, the Contractor or subcontractor shall pay the subcontractor or material supplier interest, beginning on the eighth day, at the rate of one per cent per month or fraction of a month on the unpaid balance as may be due.
- 7.2.8 Notwithstanding anything to the contrary in this section, this section applies only to amounts payable in a construction services Contract for construction and does not apply to amounts payable in a construction services Contract for design services, preconstruction services, finance services, maintenance services, operations services and other related services.
- 7.2.9 The City Contract Representative, with reasonable dispatch, will review the contents of the ESTIMATE FOR PAYMENT submitted by the Contractor, determine the sufficiency of the estimate, satisfy himself that the City has received full value, certify the estimate and submit it through normal channels for payment.
- 7.2.10 Neither the certification nor payment made to the Contractor, nor partial or entire use or occupancy of the Work by the City shall constitute an acceptance of any portion of the Work.

7.3 Payment Withheld

- 7.3.1 If the City Contract Representative is unable to certify a request for payment in whole or in part because, after observing the Work and the data comprising the ESTIMATE FOR PAYMENT, the City Contract Representative determines that the Work has not progressed or the quality of the Work is not in accordance with the Contract, the City Contract Representative shall promptly notify the Contractor. If the City Contract Representative and the Contractor cannot agree on a revised amount, the City Contract Representative will promptly issue a certificate for payment in an amount they determine is justified.
- 7.3.2 The City Contract Representative or other City official, as a result of subsequently discovered evidence, may also withhold or nullify the whole or a part of any certification to such extent as may be necessary to protect the City from loss on account of:

- .1 Defective work not remedied.
- .2 Third party claims filed or reasonable evidence indicating probable filing of such claims.
- .3 Failure of the Contractor to make payments properly to subcontractors or for labor, materials, or equipment.
- .4 Reasonable doubt that the Work can be completed for the unpaid balance of the Contract amount, or reasonable evidence that the Work will not be completed within the Completion time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay.
- .5 Damage to another contractor or to the City.
- .6 Damage to the real or personal property of another and failure to repair or replace the same.
- .7 Persistent failure to carry out the Work in accordance with the Contract.
- 7.3.3 When the grounds for withholding payment have been corrected to the satisfaction of the City Contract Representative or other City official concerned, the City shall proceed to process any amounts due.

7.4 Substantial Completion

- When the Contractor considers that the Work, or a portion thereof which the City has agreed to 7.4.1 accept separately, is ready for its intended use, it shall notify the City Contract Representative in writing that the Work, or the agreed upon portion thereof, is substantially complete and request the City Contract Representative to issue a Certificate of Substantial Completion. reasonable time thereafter, the City Contract Representative will make an inspection of the Work, or the designated portion thereof, to determine the status of completion. If the inspection discloses any item that is not in accordance with the Contract, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item. Contractor shall then submit a request for a re-inspection by the City Contract Representative. When the Work or designated portion thereof is determined to be substantially complete, the City Contract Representative will prepare a Certificate of Substantial Completion for signature of the parties, fixing therein the date of Substantial Completion and establishing the responsibilities of the City and Contractor, pending final payment by the City, for security, maintenance, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list attached to the certificate.
- 7.4.2 Warranties required by the Contract shall commence on the date of Final Completion for a period of two years, except where a specific provision of the Contract provides otherwise.

7.5 Final Completion and Final Payment

7.5.1 Upon receipt of notice from the Contractor that the Work is ready for final inspection and upon receipt of a request for final payment, the City Contract Representative will determine that all items on the punch list have been completed or corrected and the City will make payment for such work or portion thereof as provided for in the Contract.

7.6 Consent of Surety/ Lien Waivers and As-Built Drawings

7.6.1 Final payment shall become due when the Contractor provides to the Contract Officer a Consent of Surety Certificate from their bonding company, or lien waivers, at the Contract Officer's discretion and all completed as-built drawings.

7.7 Partial Utilization

- 7.7.1 The City may occupy or use any portion of the Work which the City and the Contractor agree constitutes a separately functioning and usable part of the Work that can be used by the City without significant interference with the Contractor's performance of the remainder of the Work. Such use or occupancy may commence whether or not the portion is substantially complete, provided the City and the Contractor have accepted in writing their mutual responsibilities regarding the used portion, including but not limited to insurance coverage, maintenance and utilities.
- 7.7.2 Partial use or occupancy of the Work by the City shall not constitute acceptance of Work not complying with the requirements of the Contract.

8. UNCOVERING AND CORRECTION OF WORK; CHANGES IN THE WORK

8.1 Uncovering of Work

- 8.1.1 Piping, wiring, ducts, etc., shall not be covered up before proper inspection, approval and certificates, if required, are issued. Should any work that is designated for inspection by the City Contract Representative or the Contract before covering is covered before such inspection, it must be uncovered by the Contractor at their expense when examination is ordered by the City Contract Representative.
- 8.1.2 If a portion of the Work not designated by the City Contract Representative or the Contract for inspection has been covered and the City Contract Representative or a Public Inspector orders such work uncovered for inspection, the Contractor shall immediately uncover such work. If such uncovered work is found to be in accordance with the Contract, an appropriate Change Order shall be issued to compensate the Contractor for the expense of uncovering and replacing the work. If such work is found to be not in compliance with the Contract, the Contractor shall pay such costs, unless the condition was caused by the City or a separate Contractor.
- 8.1.3 The City shall not be responsible for or bear the cost of any re-examination and replacement occasioned by defects in the work caused by subcontractors.

8.2 Correction of Work

- 8.2.1 Correction of Work Before Final Payment: The Contractor shall promptly remove from the site of the Work all materials and/or associated portions of the Work rejected by the City Contract Representative as failing to conform to the Contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract, without expense to the City, and shall bear the expense of making good the work of other contractors destroyed or damaged by such removal or replacement. If the Contractor does not remove such rejected Work and/or materials within a reasonable time, fixed by written notice, the City may remove it and may store the materials at the expense of the Contractor.
- 8.2.2 Should the Contractor fail to repair such defective material and/or workmanship or to make replacements within five (5) calendar days after written notice by the City, it is agreed that the City may, at its sole discretion, make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by the Contractor or his surety.

8.3 Changes in the Work

8.3.1 The City Contract Representative may order extra work or make changes by altering, adding to or deducting from the Work, the Contract price being adjusted accordingly by Change Order without invalidating the Contract. All such work shall be executed under the conditions of the original

Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

- 8.3.2 If, instead of requiring corrections or removal of work not conforming to the requirements of the contract, the work is determined to be acceptable with diminished value in the sole judgment of the City Contract Representative, a change order shall be issued incorporating the necessary revisions in the contract, including an appropriate reduction in the contract price. Such a change order does not require the signature or approval of the Contractor. Such acceptance of non-conforming work shall not constitute a waiver of any other work required under this contract.
- 8.3.3 The value of any extra work or change ordered under the Contract shall be determined in one or more of the following ways:
 - .1 By estimate and acceptance in a lump sum.
 - .2 By unit prices in the Contract or subsequently agreed upon prices.
 - .3 By a fixed fee.

9. SUSPENSION OR TERMINATION OF THE WORK

9.1 Suspension of the Work for Cause; City's Right to Perform the Work

- 9.1.1 If the Contractor fails to correct Work which is not in accordance with the Contract, or persistently fails to carry out the Work in accordance with the Contract, the Contract Officer, after consultation with the City Contract Representative, may order the Contractor in writing to stop the Work, or any portion of the Work, until the cause for such order has been eliminated.
- 9.1.2 If the Contractor fails to prosecute the Work properly or fails to perform any provision of this Contract, the City may, five (5) days after written notice to the Contractor, and without prejudice to any other remedy the City may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor and its surety shall be liable to the City for such deficiency.

9.2 Termination by the City for Cause

- 9.2.1 The City, upon certification by the City Contract Representative, without prejudice to any other right or remedy of the City and after giving the Contractor seven (7) days written notice, may terminate this Contract as to all or any part of the Work for any of the following reasons:
 - .1 If the Contractor abandons the Work, or unnecessarily delays the Work.
 - .2 If the Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials or competent subcontractor.
 - .3 If the Contractor fails to make payment to subcontractor for materials or labor in accordance with the respective agreements between the Contractor and the subcontractor or as expressly set forth herein.
 - .4 If the Contractor persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction, or persistently violates the conditions or covenants of this Contract.
 - .5 If the Contractor should be adjudged bankrupt.

- .6 If the Contractor should make a general assignment for the benefit of its creditors or if a receiver should be appointed on account of its insolvency.
- .7 If the Contractor is otherwise in substantial breach of a provision of the Contract as determined by the City.
- 9.2.2 Upon termination of the Contract for any of the above reasons, the City, subject to any prior rights of the surety, may:
 - .1 Take possession of the Work and of all materials, equipment, tools, and construction equipment and machinery at the Work site or adjacent thereto belonging to the Contractor.
 - .2 Accept assignment of subcontracts pursuant to Subsection 5.1.8 of Article 5 of these General Conditions.
 - .3 Finish the Work by whatever reasonable method the City may deem expedient. In completing the Work by a new contractor or by doing the Work itself, the City may use such equipment, materials, supplies, machinery, implements, tools and plant of the Contractor in the City's possession and may make all necessary repairs and replacements thereto.
- 9.2.3 If the City terminates the Contract for one of the reasons stated in Subsection 9.2.1, the Contractor shall not be entitled to receive any further payment.
- 9.2.4 The cost of fully completing the Work provided for under any new contract shall include the sum or sums of money to be paid by the City to other Contractors, all costs of repairs and replacements of machinery, implements, tools and plant of the Contractor hereunder, and also all sums of money paid for additional management and administrative services, including but not limited to the cost of the City Contract Representative's additional services and added expenses made necessary by the termination of the Contract.
- 9.2.5 If the unpaid balance of the Contract price exceeds costs of finishing the Work, such excess may, at the City's discretion, be paid to the Contractor. If such costs exceed the unpaid balance, the City may sell all materials, supplies, machinery, implements, tools and plant of the Contractor's then on hand, at public sale, on giving the Contractor twenty (20) days notice of the time and place of such sale, and the net proceeds derived from the sale of said property shall be applied against such costs. Should the amount received from the sale be insufficient to pay such deficiency, the Contractor and its surety shall be liable to pay the amount of the deficiency.

9.3 Suspension by the City for Convenience

- 9.3.1 The City may, without cause, order the Contractor in writing to suspend or interrupt the Work in whole or in part for such period of time as the City may determine whenever such suspension or interruption would be in the best interest of the City.
- 9.3.2 If the City suspends the Work for convenience, an adjustment shall be made for substantiated increases in the cost of performance of the Contract, if any, including profit on the increased cost of performance, caused by suspension or interruption. No adjustment shall be made to the extent:
 - .1 That performance is, was or would have been so suspended or interrupted by another cause for which the Contractor is responsible, or
 - .2 That an equitable adjustment is made or denied by the City.

9.4 Termination by the City for Convenience

- 9.4.1 The performance of the Work under this Contract may be terminated by the City, in whole or in part, in accordance with this clause whenever the City reasonably determines that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of the Work is terminated, and the date upon which such termination becomes effective.
- 9.4.2 If the Contract is terminated by the City as provided herein, the Contractor shall receive compensation for any Work performed and accepted, together with profit in proportion to the Work performed and accepted. The compensation shall include payment for contractual obligations reasonably incurred prior to termination. No amount shall be allowed for anticipated profit on unperformed Work.
- 9.4.3 In the event the City terminates the Work, in whole or in part, for cause pursuant to Section 9.2 of this Article 9 and the termination is later deemed to be unjustified, then such termination shall be automatically deemed a termination for convenience and the provisions of this Section 9.4 shall apply.
- 9.4.4 Termination of the Contract or portion thereof by the City for convenience shall not relieve the Contractor of their contractual responsibilities for the Work completed, nor shall it relieve the surety of its obligation for and concerning any just claim arising out of the Work completed.

9.5 Contractor's Right to Terminate Contract

- 9.5.1 The Contractor may terminate the Contract for any of the following reasons:
 - .1 If the Work should be stopped under an order of any court of competent jurisdiction or other public authority for a period in excess of one (1) month through no act or fault of the Contractor or of anyone directly or indirectly employed by him.
 - .2 If the City has failed to pay the Contractor within sixty (60) days after the date when any sum is certified for payment by the City Contract Representative, or
 - .3 If repeated suspensions or interruptions ordered by the City pursuant to Section 9.3 total in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or one hundred twenty (120) days in any three hundred sixty-five (365) day period, whichever is less.
- 9.5.2 If one of the above reasons exists, the Contractor may, upon seven (7) additional days, written notice to the City Contract Representative, stop Work and terminate the Contract and recover payment from the City for all Work executed and accepted by the City and any loss sustained upon any plant or materials and reasonable profit and damages.

10. CLAIMS AND DISPUTES

10.1 City Contract Representative's Resolution of Claims and Disputes; Review by Contract Officer

- 10.1.1 This Article relates to claims for additional compensation and any other differences between the parties arising under and by virtue of the Contract. Such claims are to be resolved at the earliest possible time and at the first responsible level so as to increase the possibility that such matters will be resolved without the vexation of an administrative hearing process, arbitration or litigation.
- 10.1.2 All claims, including but not limited to, claims relating to adjustments or interpretations of the Contract, payments of money, or other relief with respect to the terms of the Contract, shall be

- referred initially in writing to the City Contract Representative for action. The responsibility to substantiate claims shall rest with the party making the claim.
- 10.1.3 Claims by either party must be made within twenty-one (21) days after the event giving rise to the claim or within twenty-one (21) days after the claimant first becomes aware of the condition giving rise to the claim, whichever is later.
- 10.1.4 Pending final resolution of a claim, the Contractor shall proceed diligently with performance of the Contract and the City shall continue to make payments in accordance with the Contract.
- 10.1.5 The City Contract Representative shall, within twenty-one (21) days of receipt of a claim, issue one of the following:
 - .1 Issue a decision either rejecting or approving the claim.
 - .2 Suggest an equitable compromise of the claim.
 - .3 Provide a schedule to the Contractor indicating when they expect to be able to take action, which shall be within a reasonable time.
- 10.1.6 The City Contract Representative may require the submission of additional documentation from the Contractor to facilitate a decision.
- 10.1.7 The Contractor shall have ten (10) days from the date of the City Contract Representative's final decision rejecting or approving a claim, or suggesting a compromise, within which to accept or object to the decision. Failure of the Contractor to accept or object to the decision in writing within such ten (10) day period shall be deemed an acceptance of the decision. If the Contractor rejects the decision of the City Contract Representative in writing within such ten (10) day period, the matter shall be referred to the Contract Officer for de novo review.
- 10.1.8 The Contract Officer shall have sixty (60) days from receipt of a written objection by the Contractor to the City Contract Representative's final decision, or such longer period as the parties may stipulate in writing, to review the matter and issue a response. During such period, the Contract Officer may require such additional documentation or testimony as deemed necessary to support his/her response.

11. MISCELLANEOUS PROVISIONS

11.1 Governing Law

11.1.1 The Contract shall be governed and construed according to the laws of the Cottonwood City Code and the State of Arizona.

11.2 Written Notice

11.2.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or the party giving notice.

11.3 Conflict of Interest

11.3.1 The City shall also have the right to terminate this Contract pursuant to the conflict-of- interest provisions of A.R.S. Sec. 38-511 and to exercise any and all remedies provided in such statute. The City may cancel this Contract if any person significantly involved in negotiating, drafting, securing or obtaining this Contract for or on behalf of the City of Cottonwood becomes an

employee in any capacity of any other party or a consultant to any other party with reference to the subject matter of this Contract.

11.4 Contractor

- 11.4.1 It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.
- 11.4.2 Contractor shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the City, and that such days do not accumulate for the use of same at a later date.
- 11.4.3 The City of Cottonwood will not provide any insurance coverage to Contractor, including Workers' Compensation coverage. The Contractor is advised that taxes or social security payments shall not be withheld from a City payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

11.5 Gratuities

11.5.1 The City may, by written notice to the Contractor, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such contract. In the event this Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

11.6 Provisions Required By Law

11.6.1 Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

11.7 Severability

11.7.1 The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the invalid provision or application.

11.8 Interpretation – Parol Evidence

11.8.1 This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

11.9 Rights and Remedies

No provision in this document or in the Contractor's response shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of either party to insist upon the strict

performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services, obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

11.10 Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

CONSTRUCTION SERVICES AGREEMENT

THIS AGREEMENT, made	and entered into this 17th	h day of July, 20	12 , by and b	etween the City of
Cottonwood, a municipal corp	poration organized and ex	isting under the law	Cottonwood County of	Yavapai , and
"City", and Arizona State of Arizona hereina			Cottonwood, County of	<u>ravapar</u> , and
State of Arizona nereman	ner cancer the Contractor			
WITNESSETH: That the agree as follows:	Contractor and the City	y, in consideration	n of the mutual covenan	ts herein contained,

Contract Number:

Description:

Term:

1. Notice to Proceed, Completion Time, and Liquidated Damages

Contract Name: JOB ORDER CONTRACT (JOC) FOR UNDERGROUND CONTRACTING

- A. It is agreed that the City Representative will issue the Notice to Proceed with the Work to be performed under this Contract within twenty (20) consecutive calendar days after the date of execution of this Agreement, except in job order contracts where a separate Notice to Proceed will be issued for each individual job order.
- B. The Contractor agrees that the Work shall be prosecuted promptly, regularly, diligently and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.
- C. Liquidated Damages. Completion times will be specified in the Notice to Proceed. Applicable liquidated damages shall be assessed for each day the Work remains incomplete after the scheduled completion date. This amount is agreed upon because of the impracticability and extreme difficulty of ascertaining the actual damages the City will sustain on account of late completion.

2. Miscellaneous

- A. Guarantee. The Contractor shall guarantee all work under this Agreement against defects of material and workmanship for a minimum of two years from the date of Final Completion.
- B. Assignment. Neither party to this Agreement shall assign the Agreement or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the City.
- C. Contract Documents. The following listed documents constitute the Contract Documents and they are all as fully a part of this Agreement as if repeated herein:
 - Any and all amendments, Supplementary General Conditions and Special Requirements included herein.
 - Construction Services Agreement.
 - 3) General Conditions for Construction.
 - 4) Special Terms and Conditions.
 - 5) Scope of Work, including any and all Standard, Special, Technical, and Supplementary Specifications included herein.
 - 6) Performance and Payment Bonds.
 - 7) Insurance Requirements.

D. Precedence. In the event of any inconsistency between any of the terms of the documents enumerated above, such inconsistency shall be resolved by giving precedent to the terms of the above documents in the order listed. Anything in these contract documents to the contrary notwithstanding, the provisions of all pertinent general public laws of the State of Arizona in effect at the time of the execution of this Agreement shall be a part of the Agreement between the parties and shall take precedence over all of the other contract documents.

IN WITNESS THEREOF, the parties hereto have executed three (3) identical counterpart copies of this Agreement on the date and year first written above, each of which copies shall for all purposes be deemed an original hereof.

CITY OF COTTONWOOD

Diane Joens, Mayor/

APPROVE AS TO FORM

Steven Horton, City Attorney

ATTEST

Marianne Jimenez, City Clerk

CONSULTANT

By:

ATTEST (If Corporation)

beeretary

SEAL

1. INTRODUCTION

Notice is hereby given that the City of Cottonwood (City) is conducting a competitive one-step process to retain up to three (3) Contractors for a Job Order Contract (JOC) to provide annual Underground Contracting services for the City of Cottonwood. Individual job orders should not exceed two hundred fifty thousand dollars (\$250,000). The term of this contract will be one (1) year with three (3) one-year renewal options. However, services will be requested on an as-needed, if-needed basis and the resultant contract is neither exclusive nor a commitment by the City that the Contractor's services will be required.

2. BACKGROUND:

Job Order Contracting is an alternative delivery method for construction of public works projects. JOC's differ from the standard project-specific, low bid contracts in that they are indefinite-quantity contracts, which can be awarded on the basis of qualifications. Best value may be considered in awarding the JOC or in awarding job orders under the JOC contract.

3. SCOPE OF REQUIRED SERVICES:

The City of Cottonwood is in need of Water and Wastewater Utilities, Excavating and Storm Water Drainage Job Order Contracting which includes but is not limited to:

- Replacement of water and sewer service lines.
- · Replacement of water and sewer main lines.
- Installation of new water and sewer main and service lines.
- · Sewer manhole installation and rehabilitation.
- Mainline water valve replacement and new installation.
- · Replacement and installation of fire hydrants.
- · General excavating, compaction and grading.
- Confined space pipefitting and repair.
- Potholing for utility location.
- Pipefitting and replacement/installation of booster stations, wells and wastewater system components.
- Asphalt patching and surfacing including subgrade and base preparation.
- · Concrete work including slabs, sidewalks, curb and gutter, etc.
- Flood control and drainage work.
- Demolition of structures.
- Other Miscellaneous tasks as required.

4. SPECIFICATIONS

All work shall be conducted by an underground contracting firm properly licensed by the State of Arizona and shall conform to Arizona Department of Environmental Quality (ADEQ) rules and guidelines.

5. SAFETY

The Contractor shall provide sufficient safety devices (cones, barricades, tape) to establish a safety zone around the work area. The Contractor shall submit a traffic control plan and provide its personnel with safety vests for projects in the right of way or where vehicular traffic is present, or as requested by the City.

During the construction process, the Contractor shall comply with all applicable federal, state and local (City of Cottonwood) health and safety laws and regulations including, but not limited to all applicable "OSHA Standards for the Construction Industry" including, but not limited to, 29 CFR Part 1926, Subpart P — Excavations. Knowing and following OSHA Safety Standards is the Contractor's responsibility. The City may stop construction on a project until safety concerns have been corrected.

6. CLEAN UP

The Contractor shall clean up all trash and debris generated by their work in a manner acceptable to the using department.

TO THE CITY OF COTTONWOOD:

The Undersigned hereby offers and agrees to enter into negotiations with the City to provide the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the solicitation.

			For clarification, contact:	
			Name:	
Company Nam				
			Phone:	
Address				
			Fax:	
City	State	Zip		
			Email:	
Signature of Pe	erson Authorized t	to Sign		
Printed Name				
Title			_	

RECEIPT OF ADDENDA:

Proposer acknowledges receipt of the following Addenda relating to the Request for Qualifications (RFQ) for Roadway and Utility Design Engineering Services for 10TH Street between Mingus Avenue and Main Street in Cottonwood, Arizona.

Addendum No.	Date	
Company Name	Representative Name (Print)	
Penrecentative's Signature	Date	

NON-COLLUSION AFFIDAVIT

STATE OF:)				
CITY OF) ss				
CITY OF:)				
-	(Name of	Company, R	epresentative)		-
being first duly sworn, dep	poses and says:				
That she/he is			of		_
	(Title)		(Nan	ne of Company)	
That pursuant to Section 1	12 (C) of Title 23 l	USC or other	r applicable laws, he/s	he certifies as follows:	
That neither he/she no	or anyone associated	d with the sa	id		
	(N	Jame of Com	ipany)		-
has, directly or indirectly restraint of free competitive	and the second s	-	participated in any c	ollusion or otherwise tal	ken any action ir
			for Underground Co	ntracting	
This bid is genuine and submitted to conform to a submitted a false bid or sigive one particular bid any	any agreement or rolicited whether di	ules of any rectly or ind	group, association, or irectly with any other	ganization or corporation	n. Bidder has no
Ву:					
(Signature of In	ndividual/Represent	ative)			
STATE OF:)				
COUNTY OF:) ss.				
	,			1 1 1 1 200	TABLE NIBLIC
On this theday of		, 20		, the undersigned NO d to me that they execu	
personally appearedinstrument for the purposes	s therein contained		_, who acknowledge	u to me that they execu	ited the foregoing
IN WITNESS WHEREOF	I hereunto set my h	and and offi	cial seal.		
				SEAL	
NOTARY PUBLIC					
My Commission Expires:					

DISCLOSURE OF RESPONSIBILITY STATEMENT

NOT	ARV PUBLIC			My Commission Expires:	
IN W	ITNESS WHEREOF I here	unto set my hand and of	ficial seal.	SEAL	
instru	ment for the purposes therei	n contained.			
person	nally appeared		, who	acknowledged to me that they executed the foregoing	
On th	is the day of	, 20		, before me, the undersigned NOTARY PUBLIC,	
COU	NTY OF:)			
	TE OF:)) ss.			
		uai/Representative)			
Ву: _	(Signature of Individ	ual/Penrasantativa)			
any si	upplemental responses attac	ched hereto, are true.			
		Louis			
of	Company Name		_, declare	under oath that the above statements, including	
I,	Name of indiv	vidual	, as	Title & Authority	
	health rules.	olations of federal of s	nate labor	Taws, regulations, or standards, occupational surety and	
Н.	List any documented vi	olations of federal or s	state labor	laws, regulations, or standards, occupational safety and	
G.	List any penalties impos	ed for time delays and/	or quality	of materials and workmanship.	
F.	List any contracts not co	mpleted on time.			
E.	List any prior suspension	ns or debarments by an	y governn	nental agency.	
D.	List any violations of of performance, in accordan			ing to perform (without good cause), or unsatisfactory ontract.	
C.	List any convictions or civil judgments under state or federal antitrust statutes.				
В.		s, etc. or any other of	fenses ind	ate of this company for offenses such as embezzlement, icating a lack of business integrity or business honesty,	
A.				e of the company, arising out of obtaining, or attempting the performance of such contract or subcontract.	

CERTIFICATE OF INSURABILITY

I hereby certify that as a Bidder to City of Cottonwinsurance requirements contained in the Contract and produce the insurance coverage required should I be seen	by the submission of this bid. I hereby assure City that I am able to
(10) working days, I am fully aware and understand t	come unable to produce the insurance coverage specified within ten that this shall constitute a material breach of this Contract and shall n of the Contract at the sole discretion of the City. I also understand arther projects by City.
Signature of Bidder	Company
Date	

CONTRACTOR IMMIGRATION WARRANTY

(To Be Completed by Contractor Prior to Execution of Contract)

A.R.S. § 41-4401 (Government procurement, E-verify requirement, definitions) requires as a condition of your Contract, verification of compliance by the Contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the Contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Numbe	r:		
Name (as listed in	n the contract):		
Street Name and	Number:		
City:	State:	Zip Code:	

I hereby attest that:

- The Contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this Contract;
- The Contractor shall verify, through the U.S. Department of Homeland Security's E-Verify program, the
 employment eligibility of each employee who provides services or labor in Arizona for wages or other
 remuneration, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to
 Contractor.
- All subcontractors performing work under this Contract comply with the Federal Immigration and Nationality Act
 (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status
 of their employees.
- 4. The Contractor acknowledges that a breach of this warranty by the Contractor or by any subcontractor or subsubcontractor under this Contract shall be deemed a material breach of this Contract, and is grounds for penalties, including termination of this Contract, by Owner.
- 5. Owner retains the legal right to inspect the papers of Contractor, and any subcontractor and sub-subcontractor employee who performs work under this Contract, and to conduct random verification of the employment records of Contractor and each subcontractor and sub-subcontractor who works on this Contract, to ensure that Contractor and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

Signature of Contractor (Employer) or Authorized Designe	e:
Printed Name:	
Title:	
Date (month/day/year):	

STATUTORY PAYMENT BOND

(Penalty of bond must be 100% of the Contract Amount.)

KNOW ALL MEN BY THESE PRESENTS:

That,	as Principal, and	
as Surety, are held and firmly bound unto the City of	Cottonwood, Arizona, a municipal corp	
the Obligee) in the penal sum of the payment of which sum well and truly to be made v and assigns, jointly and severally, firmly by these presen	we bind ourselves, our heirs, executors, nts.	administrators, successors
WHEREAS, said Principal has entered into a certain Cohereinafter called the Contract, for		
which Contract shall be deemed a part hereof as fully a agreed to furnish a bond such as herein set forth;	as if set forth herein, and under the term	s thereof the Principal has
NOW, THEREFORE, the condition of this obligation is to all persons supplying labor or materials to him or his Contract, or in any amendment or extension of or additional remain in full force and effect.	s subcontractors in the prosecution of the	e work provided for in said
PROVIDED, HOWEVER, that this bond having been re of Title 34, Chapter 2, Article 2, of the Arizona Revise to such persons and shall be determined in accordant Chapter and Article, to the same extent as if they were on the same extent as if they were extent as if they were on the same extent as if they were extent as if the same extent as if they were extent as if they we	ed Statutes, all rights and remedies on the ace with the provisions, conditions and	nis bond shall insure solely
The prevailing party or any party which recovers judgm as may be fixed by the court or a judge thereof.	nent on this bond shall be entitled to such	reasonable attorney's fees
IN WITNESS WHEREOF two (2) identical counterpresented an original thereof, have been duly executed by	parts of this instrument, each of which the Principal and Surety named, on the	shall for all purposes be day of
Principal Seal	Surety	Seal
Agency of Record		

NOTE: A certified copy of Power of Attorney of the persons signing for the Surety Company must be filed with the Bond. In the event the Power of Attorney attached hereto is revoked, the Surety shall notify the city Clerk directly in writing. Said Power of Attorney shall remain in full force and effect until such direct notice is given to the City.

STATUTORY PERFORMANCE BOND

(Penalty of this bond must be 100% of the Contract amount.)

KNOW ALL MEN BY THESE PR of the Purchasing Agent on	ESENTS: That the City, 20	of Cottonwood, Arize has awarded to	ona, a municipal corporatio	n, by action
hereinafter designated as the "Princi				
which Contract is hereby referred to	and made part hereof as	fully and to the same	extent as if copied at length	herein; and
WHEREAS, said Principal is require 2, of the Arizona Revised Statutes, to	red under the terms of sa to furnish a bond for the	id Contract, and the prisitiful performance of	rovisions of Title 34, Chapt f said Contract;	er 2, Article
				corporation
NOW, THEREFORE, we the Princi organized and existing under the lav , (hereinaf	ter called the Surety),	as Surety, are held	and firmly bound unto	the City of
Cottonwood a municipal cornoration	on Chereinafter called the	(Obligee), in the penal	amount of	
themselves, and their heirs, admir presents.	nistrators, executors, suc	ccessors and assigns,	eof, the said Principal and jointly and severally, firm	aly by these
NOW, THEREFORE, the condition all the undertakings, covenants, to contract and any extension thereof, the Contract, and shall also perform and all duly authorized modification. Surety being hereby waived; then the	erms, conditions and ag with or without notice to an and fulfill all the unde ons of said Contract that	reements of said Cor the Surety, and during rtakings, covenants, te may hereafter be mad	tract during the original of the life of any guaranty re rms, conditions, and agreentle, notice of which modific	quired under nents of any ations to the
PROVIDED, HOWEVER, that thi Arizona Revised Statutes, and all Title, Chapter and Article to the ext	liabilities on this bond s	hall be determined in	of Title 34, Chapter 2, Art accordance with the provis	icle 2 of the sions of said
The prevailing party or any party was may be fixed by the court of a ju	which recovers judgment dge thereof.	on this bond shall be e	ntitled to such reasonable at	torney's fees
IN WITNESS WHEREOF two (2 deemed an original thereof, have be, 20	 identical counterparts een duly executed by the 	of this instrument, ea Principal and Surety n	ach of which shall for all amed, on the day	purposes be
Principal	Seal	Surety		Seal
Agency of Record				
NOTE: A certified copy of Power of In the event the Power of Attorney Said Power of Attorney shall remain	y attached hereto is revo	ked, the Surety shall i	notify the City Clerk direct	ith the Bond. ly in writing.

CONSENT OF SURETY TO FINAL PAYMENT AND FULL RELEASE OF CONTRACT RETAINAGE OR SUBSTITUTE SECURITIES

payment bond for the	payment of labor a	Surety"), having provided the City of Cottonwood and material provided to the Contractor,	(hereinafter "City") with a
(hereinafter "Contracte	or") in connection	with City of Cottonwood Contract No.	, (hereinafter
the "Project") hereby by City in connection	consents to final p	payment and full release of all retainage or substitute	securities to Contractor held
Surety further releases asserted against City connection with the Pr	as a result of Ci	tims, past, present, future, known or unknown which ty's final payment and release of the retainage or	it may assert or could have substitute securities held in
release of retainage of	r substitute secur	City of any liability or responsibility in connection ities to the Contractor in connection with the Projection under the payment bond issued for the Project.	with final payment and full ect and shall in no way be
Surety		Seal	
STATE OF:)		
COUNTY OF:) ss.		
COCHIT OI.	,		
IN WITNESS WHERI before me, the undersig purposes therein contain	med NOTARY PU	as executed this instrument thisday of	, 20, e foregoing instrument for the
IN WITNESS WHERE	OF I hereunto set	my hand and official seal.	
		SEA	L
NOTARY PUBLIC			
My Commission Expire	es:		

SPECIAL TERMS AND CONDITIONS

- Number of Contracts to be Awarded. The City intends to award up to three (3) contracts for the services described herein.
- 2. Basis for Awarding Individual Job Orders. In the event the City awards more than one (1) contract for these services, individual job orders will be awarded based upon consideration of the firm's ability to complete the work expeditiously and the proposed cost. The City intends to request price and schedule proposals from all contracted Contractors for each individual job order. However, when quoting individual job orders is impracticable, the City reserves the right to award job orders as it deems to be in its best interest.

Scope, schedule, price, and liquidated damages (if applicable) are agreed upon in a fully executed Notice to Proceed letter prior to Contractor beginning the work.

The Contractor shall be available on a five (5) day work basis throughout the term of the contract unless notified in writing by the City that this requirement may be temporarily waived due to the Contractor's approved written request or a reduced need by the City. The Contractor must be available to commence work on assignments within one week from award of an individual job order.

- 3. Contract Term and Renewal. The term of this contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Cottonwood shall have the right, as its sole option, to renew the contract for three (3) additional one (1) year periods, or portions thereof. If the City chooses to exercise this option, all terms, conditions, and provisions of the original contract shall remain the same and apply during the renewal period with the possible exception of fee basis and minor scope additions and/or deletions.
- 4. Compensation and Method of Payment. In consideration of the performance of the services described in the Scope of Services of each individual job order and pursuant to the master Scope of Work herein, the City shall pay the Contractor in accordance with the negotiated contract rates, and the Contractor shall charge the City only in accordance with those same rates.

Compensation under this contract should not exceed \$250,000 per individual job order unless a waiver is requested of and granted by the Administrative Services General Manager.

The City will pay the Contractor following the submission of itemized invoice(s) for the service rendered. No payment shall be issued prior to receipt of material or service and correct invoice.

All requests for payment shall follow a format to be approved by the City Representative. Invoices shall be submitted monthly on a job-by-job basis.

- 5. Bonding Requirements. Contractor shall file with the City, prior to the time of execution of the contract and annually, if the term of this contract is extended by the City, payment and performance bonds in the forms prescribed by the City unless bonding per project. The bonds must cover all construction performed under job orders. The amount of the bonds provided by the Contractor must always be at least equal to the total amount of the contract prices for construction work under job orders issued and not complete. Contractor agrees to provide such additional bonding as may be required to satisfy this requirement, as provided under A.R.S. 34-610. Bonds may be provided as follows: annual bonds in the amount designated by the agency, or bonding per each individual job. Successful contractor(s) will designate bonding methodology prior to contract award.
- 6. **Performance Rating.** At the completion of each term or termination of this contract, the City will evaluate the Contractor based on performance under this contract. This rating will be used in the overall evaluation of the Contractor when applying for future work with the City.
- Audit and Inspection of Records. The Contractor shall permit the authorized representatives of the City of Cottonwood to inspect and audit any books, documents, papers, data and records relating to its performance under

the contract until the expiration of three (3) years after final payment under this contract. The City shall have the right to audit and/or examine such records at any time during the progress of this contract and shall withhold payment if such documentation is found by the City to be incomplete or erroneous.

The following access to records requirements apply to this contract:

The Contractor agrees to provide the City of Cottonwood or any of its authorized representative's access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the City of Cottonwood or any of its duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

- 8. Contract Amendments. The Administrative Services Department has the sole authority to:
 - A) Amend the contract or enter into supplemental verbal or written agreements;
 - B) Grant time extensions or contract renewals;
 - C) Otherwise modify the scope or terms and provisions of the contract.

The contract shall only be modified with the approval of the Administrative Services General Manager. Except in the case of documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Administrative Services General Manager through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

- 9. Child/Sweat-Free Labor Policy. The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
- 10. Federal Immigration Laws and Regulations. The Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this contract by the Contractor and any subcontractor.

- 11. (ADA) Americans with Disabilities Act. The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. 12101-12213, 47 U.S.C. 225 and 611, and all regulations thereto), and the Arizonans with Disabilities Act of 1992 (A.R.S. 41-1492 et seq., and all regulations pertaining thereto).
- 12. Certification of Compliance with A.R.S. Section 35-397. By signing this contract, the Contractor certifies that it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-397. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Cottonwood Procurement Code up to and including termination of this contract.

- 13. City of Cottonwood Business License. The Contractor shall maintain in current status all Federal, State, and local registrations, licenses and permits, including a City of Cottonwood business registration, required for the operation of the business conducted by the Contractor as applicable to this contract.
- 14. Arizona Law. This contract shall be governed and interpreted according to the laws of the State of Arizona.
- 15. Jurisdiction and Venue. The parties agree that this contract is made in and shall be performed in Yavapai County. Any lawsuits between the Parties arising out of this contract shall be brought in the courts of Yavapai County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 16. Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this contract is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.
- 17. Notices. All notices or demands required to be given pursuant to the terms of this contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of CITY:

In the case of CONTRACTOR:

City of Cottonwood Public Works Department Engineering Division 1490 W Mingus Avenue Cottonwood, AZ 86326 (928) 634-8033 Company Name: Kinney Construction Services
Contact: Tim Kinney

Address: 120 N. Beaver Street Suite 100

City, State, Zip: Hag staff, Az 86001

Telephone Number: 928.779.2020

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

GENERAL CONDITIONS FOR CONSTRUCTION

1. DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Administrative Services General Manager - - the person acting as Director of the City's Purchasing Manager and who has authority to award and revise City solicitations and contracts for construction, construction services, and construction-related services as necessary.

Amendment - written or graphic instrument issued prior to the due date which clarifies, corrects or changes the Solicitation.

Architect/Engineer - the person licensed to practice architecture/engineering by the State of Arizona and who is identified as the Architect/Engineer of Record. May be utilized to provide construction administration services.

Bonds - bid, performance and payment bonds and other instruments of security.

Change Order - a document approved by the City Contract Representative and which is signed by the Contractor and the City's Administrative General Manager or duly authorized designee and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Completion time, issued on or after the effective date of the Contract.

City - means the City of Cottonwood, Arizona, a municipal corporation.

City Contract Representative - the City official administering the Contract for the City of Cottonwood.

Completion Time - the number of consecutive calendar days agreed to by the City and Contractor for completion of the Work, which may be revised by written Change Order.

Construction – the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any real public property.

Construction-Manager-At-Risk — a project delivery method in which there is a separate contract for design services and a separate contract for construction services, with design and construction taking place in sequential or concurrent phases, and in which finance services, maintenance services, operations services and preconstruction services may be included.

Construction Services – either of the following for construction-manager-at-risk, design-build and job- order-contracting project delivery methods:

- construction, excluding services, through the construction-manager-at-risk or job-ordercontracting project delivery methods;
- a combination of construction and, as elected by the City, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services.

Contract - the written agreement and all associated attachments, drawings, amendments and change orders executed between the City and the Contractor covering the Work to be performed.

Contract Price - the amount payable by the City to the Contractor for satisfactory completion of the Work, and as specified in the Contract as may be amended by written Change Order, or, in the case of a job- order contract, in the Notice to Proceed.

Contract Officer - the City official who conducts the solicitation process to secure a Contractor for the Work and who acts under the authority and direction of the City's Administrative Services General Manager and in accordance with the Cottonwood Procurement Code.

Contractor - the person, firm or corporation with whom the City has entered into the Contract.

Design-Build – the process of entering into and managing a contract between the City and a contractor in which the Contractor agrees to both design and build a structure and in which design and construction services may be in sequential or concurrent phases, and which may include finance services, maintenance services, operations services, design services and preconstruction services.

Design Services - architect services, engineer services or landscape architect services.

Drawings - the graphic and pictorial portions of the contract, wherever located and whenever issued, showing the configuration, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

Estimate for Payment - a form furnished by the City or an approved form submitted by the Contractor in lieu of city furnished form, and is required to be used when submitting requests for payments for work actually performed and materials supplied during a an agreed-to preceding period of time.

Field Order - a written order or directive issued by the City Contract Representative that orders minor changes in the Work.

Final Completion Date - the calendar date when the Work is one hundred percent (100%) complete as determined by the City.

Job-Order-Contracting – a project delivery method in which the contract is a requirements contract for indefinite quantities of construction and in which specified job orders are issued during the contract and may include finance services, maintenance services, operations services, preconstruction services and design services.

Liquidated Damages – a sum set forth in the Contract documents that will be deducted from any monies due to the Contractor, not as a penalty, but in lieu of actual damages for late completion of the work.

Maintenance Services - routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.

Notice to Proceed - a written notice given by the City to the Contractor fixing the date on which the Completion time will commence and upon which the Contractor shall start to perform the Contractor's obligations under the Contract. In the case of a job order, it may also contain the specifications exclusive to the job order as well as consideration for the Contractor.

Public Inspector(s) - that person or persons provided by the public authorities having code jurisdiction and who perform day-to-day inspections of the Work for compliance with applicable codes.

Schedule of Values - a schedule submitted by the Contractor setting forth the values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City Contract Representative may require. This schedule must be submitted before the Contractor submits its first application for progress payment and shall be used as a basis for reviewing and approving payments to the Contractor.

Shop Drawings - drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the Contractor to illustrate, in detail, how some portion of the Work shall be fabricated and/or installed, and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a supplier and submitted by the Contractor to illustrate material or equipment for some portion of the Work.

Specifications - those portions of the Contract, or Notice to Proceed if a Job Order, consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Substantial Completion – a written declaration of the date upon which the City, in its sole discretion, determines the Work is substantially complete such that the City has beneficial use and/or occupancy. Upon substantial completion, the right of the City to assess liquidated damages for time after the date of substantial completion ceases, except as allowed for failure to meet final completion within thirty days of substantial completion.

Cottonwood Procurement Code – in addition to applicable State statutes and applicable Federal regulations and requirements, the municipal ordinance that governs the construction services contracting process as well as contract administration processes including the resolution of contract claims, disputes and controversies.

The Work - the entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract, or, in the case of a job-order contract, within individual Notices to Proceed. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract and/or Notice to Proceed, as appropriate.

2. THE CONTRACT ITS EXECUTION AND INTENT

2.1 The Contract

- 2.1.1 The documents in the Contract include any amendments, drawings, change orders and approved Contractor submittals.
- 2.1.2 The Contract comprises the entire agreement between the City and the Contractor concerning the Work and supersedes any prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by an instrument in writing and fully executed by the authorized parties to the Contract.

2.2 Intent of the Contract

- 2.2.1 The intent of the Contract is to include all labor, materials, equipment, transportation and all other costs and expenses necessary for the proper execution and completion of the Work by the Contractor.
- 2.2.2 The Contractor shall take no advantage of any apparent error or omission in the plans, estimated quantities or specifications. In the event the Contractor discovers such an error or omission after contract award, the Contractor shall immediately notify the City Contract Representative. The City Contract Representative shall then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the contract.
- 2.2.3 The Contract shall be construed in accordance with the laws of the State of Arizona, and all such laws regulating the construction of public works by the City are hereby incorporated herein by reference and made a part hereof.
- 2.2.4 Materials or work described in words, which have a well-known technical or trade meaning, shall be held to refer to such recognized standards.
- 2.2.5 The organization of the Contract into divisions, sections or articles is merely for the purpose of convenient reference, and neither the headings nor divisions shall have any legal or Contractual significance and shall not control the division of the Work by the Contractor among the various subcontractor or trades.
- 2.2.6 The Contractor shall include all applicable utility fees, permits, licenses, etc. in each estimate or proposal submitted.

2.3 Execution

2.3.1 Execution of the Contract by the Contractor is a representation that the Contractor has thoroughly examined the Contract.

2.4 Ownership of the Contract

2.4.1 The Contract, including, but not limited to, the drawings and specifications, is the property of the City and is not to be used by the Contractor or any subcontractor on other projects outside the scope of the Work without the express written consent of the City.

3. ADMINISTRATION OF THE CONTRACT

3.1 Lines of Authority and Communications

- 3.1.1 The City's Administrative Services General Manager is the City official with overall authority and responsibility for the award and administration of City Contracts. The Administrative Services General Manager or their designated Finance Department representative after consultation with the City Contract Representative has the ultimate authority to resolve disputes concerning Contract performance and to stop the Work whenever such stoppage may be necessary to ensure the proper execution of the Work.
- 3.1.2 The City Contract Representative is the designated representative of the particular City department for which the Work is being constructed (the "user department") or the City department which is responsible for the oversight of the work.
- 3.1.3 Day-to-day administration of the Contract is the responsibility of the City Contract Representative. The City Contract Representative is the City's representative during the prosecution of the Work and shall act as surveillance and technical advisor for the City. The City Contract Representative duties are more fully described in Section 3.2 of this Article.
- 3.1.4 The Contractor shall supervise and direct the Work and shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work, unless the Contract gives other specific instructions concerning these matters. The Contractor's duties and responsibilities are more fully described in Article 4 of these Contract conditions.
- 3.1.6 Except where the Contract otherwise provides or where direct communication has been specifically authorized, the Contractor shall initially communicate with the City Contract Representative.

3.2 City Contract Representative's General Authority and Responsibilities

3.2.1 Unless the Contractor is responsible for the design of the Work, the City Contract Representative shall furnish to the Contractor, free of charge unless it is provided otherwise in the Contract, up to three copies of drawings, specifications and instructions available for the execution of the Work. The City Contract Representative may furnish additional clarifications or interpretations in writing or by drawings as may be necessary for the proper progress and execution of the Work. Such additional clarifications and interpretations shall be furnished with reasonable promptness, and the Contractor shall not do work without drawings or written clarifications where needed. All drawings, specifications and copies thereof furnished by the City Contract Representative are City property. They are not to be used on other work and, with the exception of the signed Contract, and are to be returned to the City Contract Representative at the completion of the Work.

- 3.2.2 The City Contract Representative shall make general surveillance of the Work. By making sufficient periodic visits to the site of the Work, the City Contract Representative will become thoroughly familiar with the progress and quality of completed portions of the Work, and will assess if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract.
- 3.2.3 The City Contract Representative will decide all questions which may arise as to the quality and acceptability of materials furnished and Work performed and as to the rate of progress of the Work, and all questions which may arise as to the interpretation of the drawings and specifications.
- 3.2.4 The City Contract Representative shall have the authority to reject work that is not in conformity with the Contract and to order additional inspections and testing of the Work. The City Contract Representative's failure during the progress of work to discover or reject materials or work not in accordance with the plans, specifications or contract documents shall not be considered an acceptance of the work or materials or a waiver of defects. Neither the failure of the City Contract Representative to properly perform inspections, tests or approvals required by the contract documents nor the activities or duties of the City Contract Representative in the administration of this contract shall relieve the Contractor from the contractor's responsibility for the means, methods, techniques, sequences or scheduling of the construction or the obligation to perform the work in strict accordance with the contract documents.
- 3.2.5 The City Contract Representative shall conduct an initial review of, and approve or deny, written Change Orders submitted by the Contractor, and may prepare Change Orders and provide field clarifications and corrections. All Change Orders shall be approved by the Administrative Services General Manager or their designee prior to any work being done. However, in emergencies endangering life or property, the City Contract Representative may take action and issue orders which are deemed necessary to avert the loss of life or property.
- 3.2.6 The City Contract Representative, pursuant to Article 10 of these General Conditions, shall make recommendations to the Contract Officer as to all claims of the Contractor.
- 3.2.7 The City Contract Representative will review and process the Contractor's monthly Estimates for Payment, as more fully set forth in Article 7 of these General Conditions.
- 3.2.8 The City Contract Representative will conduct inspections to determine the dates of Substantial Completion and Final Completion and will certify such dates to the Contract Officer.
- 3.2.9 The City Contract Representative will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility.

3.3 Public Inspections

- 3.3.1 Unless otherwise specifically provided in the Contract, Public Inspectors who perform day- to-day inspections of the Work for compliance with applicable codes will have authority to require compliance with drawings, specifications and applicable codes, and may provide clarification of any unspecified or unclear item or situation.
- 3.3.2 If the drawings or specifications, laws, ordinances, or any public authority requires any work to be specially tested or approved, the Contractor shall give the City Contract Representative timely notice of its readiness for inspection. If the inspection is by an individual, authority or entity other than the City Contract Representative or the Public Inspectors, the Contractor shall advise the City Contract Representative of the date fixed for such inspection.

3.3.3 All tests, inspections or approvals required to be performed by the City Contract Representative, Public Inspectors, or other authorities or entities shall not relieve the Contractor of their obligation to perform the Work in accordance with the Contract.

3.4 Special Inspections and Testing of Materials

- 3.4.1 All equipment and materials used in the construction of the Work, especially those upon which the strength and durability of the structure may depend, will be subject to adequate inspection and testing in accordance with accepted standards, to establish conformance with specifications and suitability for the use intended, as determined by the City Contract Representative.
- 3.4.2 The performance of tests and the engagement of testing laboratories or agencies must have the prior approval of the City Contract Representative. Except as provided in subsection 3.4.3, the City will pay for approved tests and services rendered by the approved laboratory or agency in addition to the Contract price for construction.
- 3.4.3 When initial tests indicate that any portion of the Work is not in conformance with the Contract because of faulty workmanship, the Contractor shall be required to pay for necessary re-tests. When initial tests indicate that the work is in conformance with the Contract, any re-testing that's ordered by the City shall be paid for by the City.

4. THE CONTRACTOR'S DUTIES AND RESPONSIBILITIES

4.1 Contractor's Review of Contract and Site Conditions

- 4.1.1 It shall be the duty of the Contractor to carefully study and compare all drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative.
- 4.1.2 The Contractor shall be required to use, for data and dimensions, figures marked on the drawings in preference to what the drawings may measure to scale; but in the absence of figured dimensions, scale dimensions may be used with the prior written concurrence of the City Contract Representative. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Errors or inconsistencies shall be reported to the City Contract Representative immediately. It is the responsibility of the Contractor to provide BLUESTAKE verification of underground utilities on which may impact construction site.
- 4.1.3 Change orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications unless prior notification is given by the Contractor to the City Contract Representative.
- 4.1.4 The Contractor shall perform the Work in accordance with the Contract and with shop drawings, product data and samples that have been approved by the City Contract Representative.
- 4.1.5 Notwithstanding the above provisions, if the Contractor is responsible for the design of the Work, the Contractor shall ensure the accuracy and completeness of the drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative and shall be responsible for any required corrective action.

4.2 Contractor's Supervision

- 4.2.1 The Contractor shall efficiently and continuously supervise and direct the Work, using its best skill and attention. Unless the Contract specifically provides otherwise, the Contractor shall be solely responsible for and shall exercise control over construction means, methods, techniques and procedures and shall coordinate the sequences of all portions of the Work.
- 4.2.2 The Contractor shall ensure that the key personnel submitted in response to the Request for Qualifications and assigned to this Contract are available throughout the term of the Contract. In the event that the Contractor requests substitution of key personnel, the Contractor shall obtain prior approval from the City for key personnel substitution. The Contractor shall ensure that substituted personnel are equally qualified and capable. Information on the qualifications of proposed substitutes shall be provided to the City for its consideration and approval prior to substitution taking place.
- 4.2.3 The Contractor agrees that it is as fully responsible to the City for the acts and omissions of its subcontractors and of persons, either directly or indirectly employed by the Contractor, as it is for the acts and omissions of persons directly employed by the Contractor.

4.3 Materials and Labor; Warranty

4.3.1 Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, equipment, tools, construction equipment and machinery, water, gas, heat, utilities, transportation, and other facilities and services necessary for the execution, completion and delivery of the Work within the specified Completion Time.

4.3.2 The Contractor shall pay all applicable taxes associated with the Work.

- 4.3.3 The Contractor warrants to the City that all materials and equipment furnished under the Contract will be new unless otherwise specified, and that all of the Work will be of good quality, free from faults and defects and in conformance with the Contract. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.
- 4.3.4 The Contractor shall furnish all materials required to complete the work, except those specified to be furnished by the Agency. The Contractor shall receive, inventory, store, inspect, protect, distribute, and install Agency furnished material unless otherwise specified. The cost of handling and placing all materials after they are delivered to the Contractor shall be considered as included in the contract price for the item in connection with which they are used. The Contractor shall be held responsible for all material delivered to the contractor. Deductions shall be made from any monies due the Contractor to make good any shortages or deficiencies, from any cause whatsoever and for any damage which may occur after such delivery, and for any late delivery charges.
- 4.3.5 The Contractor will be held to furnish all work as specified in the Contract. After a price proposal for the Work has been accepted by the City, changes of brand named, trade named, trademarked, patented articles, or any other substitutions will be allowed only by written order signed by the City Contract Representative. Unless otherwise agreed to via Change Order, the City shall receive all benefits of the difference in costs.
- 4.3.6 Materials not conforming to the requirements of the specifications, whether in place or not, shall be rejected and shall be promptly removed from the site of the work, unless otherwise directed by the City Contract Representative. No rejected material, the defects of which have been corrected, shall be returned to the work site until such time as approval for its use has been given by the City Contract Representative.

4.4 Construction Schedules and Submittals

- 4.4.1 Before commencing the Work, the Contractor shall provide the City Contract Representative with a construction schedule for the Work, fixing the dates at which various predetermined events shall occur in order to promote a timely completion of the various parts of the Work in accordance with the Contract. The schedule may be revised from time to time as may be required by conditions of the Work, but shall not exceed time limits, or any extensions thereof, set forth in the Contract or in the individual job order, as appropriate.
- 4.4.2 The Contractor shall prepare and keep current for the City Contract Representative's approval, a schedule of submittals which shall be coordinated with the Contractor's construction schedule and allow the City Contract Representative reasonable time to review such submittals.
- 4.4.3 After review, the City Contract Representative, with reasonable promptness, shall approve these shop or setting drawings, product data, samples and sequences for conformance with the design concept of the project, the approved construction schedule, and other requirements of the Contract.
- 4.4.4 The Contractor shall make any corrections required by the City Contract Representative and resubmit such corrected materials to the City Contract Representative for approval. Any correction or change that will result in a design or function change or in an increase or decrease in the Contract price must also receive the prior approval of the City's Administrative Services General Manager or their designee.
- 4.4.5 The Contractor shall perform no portion of the Work requiring submittal and review of shop drawings, product data, samples or schedules until the respective submittals have been approved by the City Contract Representative, and shall not deviate from such submittals after final approval by the City Contract Representative.
- 4.4.6 As-builts documents must be provided to the City by the Contractor within thirty days of substantial completion. The City reserves the right to withhold final payment until complete asbuilts have been received in good order by the City Contract Representative.

4.5 Documents and Samples at the Work Site

4.5.1 Unless otherwise directed by the City's Contract Representative, the Contractor shall maintain at the Work site a complete file of the drawings, specifications, amendments, change orders and other approved modifications, in good order and marked to reflect changes and selections made during construction, together with all approved shop drawings, product data, samples and similar required submittals. Such files shall be made available to the City Contract Representative and Public Inspectors upon request.

4.6 Protection and Use of Site - (Signs, Utilities, Water, Sanitation, Traffic, etc.)

- 4.6.1 The City will provide land, rights-of-way and easements for all work specified in the Contract. The Contractor shall confine their apparatus, the storage of materials and the operations of its workmen to limits indicated by law, ordinances, permits or directions of the City Contract Representative, and shall not unreasonably encumber the premises with their material and equipment.
- 4.6.2 Contractor shall prevent any damage to pipes, sewers, computer and phone lines, conduits or other structures, including public and/or private lawns, gardens, shrubbery and trees encountered in the Work, and shall hold the City harmless from damages for any injury done to such pipes, structures or property during the course of the Work.

- 4.6.3 Work shall be accomplished so that there will be a minimum of traffic interruption and inconvenience, discomfort or damage to the public.
- 4.6.4 The Contractor shall supply safe drinking water for all Contractor employees at the Work site.
- 4.6.5 If archaeological, historical or paleontological features are encountered or discovered during any activity related to the Work, the Contractor shall stop work immediately at that location and shall take all reasonable steps to secure the preservation of those features. The City Contract Representative will make arrangements for the proper treatment of the affected portion of the Work site. The Contractor shall not resume work in the affected portion without the prior approval of the City Contract Representative. Extensions in the Completion time for delays resulting from the discovery of archaeological, historical or paleontological features, if such discovery results in a delay to the progress of the Work, may be claimed by the Contractor in accordance with Article 10 of these General Conditions.

4.7 Cleaning Up

- 4.7.1 The Contractor shall at all time keep the construction site and surrounding area free from accumulations of waste material or rubbish caused by operations under the Contract. Upon completion of the Work, the Contractor shall remove all rubbish, tools, equipment, scaffolding and surplus materials from the site and surrounding areas and leave the area "broom clean" or its equivalent, unless otherwise instructed by the City Contract Representative.
- 4.7.2 If the Contractor fails to clean up as provided in the Contract, the City may do so and the cost thereof shall be charged against the Contractor.

4.8 Emergencies

- 4.8.1 In an emergency affecting the safety of life or property, the Contractor, without special instruction or authorization from the City Contract Representative, is hereby permitted, authorized and directed to act at its own discretion to prevent threatened loss or injury.
- 4.8.4 Except in the case of an emergency requiring immediate remedial work, any work performed after regular working hours, on Saturdays, Sundays or legal holidays shall be performed without additional expense to the City unless such work has been specifically requested and approved by the City Contract Representative.
- 4.8.5 The Contractor shall file with the City Contract Representative the names, addresses and telephone numbers of their employees who can be contacted at any time in case of emergency. These Contractor representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by the City or the Public Inspectors.

4.9 Permits, Fees and Notices

- 4.9.1 The Contractor shall, at their expense, obtain all necessary permits and licenses for work performed under the Contract, and shall give all necessary notices required by laws, ordinances, rules, regulations and lawful orders of public authorities pertaining to performance of the Work, public health and safety.
- 4.9.2 If the Contractor knowingly performs work which is not in compliance with such laws, ordinances, rules, regulations or orders, without such notice to the City Contract Representative, the Contractor shall assume full responsibility for such Work and shall bear all costs attributable thereto.

4.10 Royalties and Patents

- 4.10.1 The Contractor shall pay all royalties and license fees.
- 4.10.2 The Contractor and the surety shall defend any suit or proceeding brought against the procuring agency, during the prosecution or after the completion of the work, based on a claim that manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, furnished or used under this Contract constitutes an infringement of any patent, trademark, or copyright, and the Contractor shall pay all damages and costs awarded therein, against the procuring agency and any affected third party or political subdivision. If manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, is in such suit held to constitute infringement and if manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, is enjoined, the Contractor shall, at its own expense, either procure for the procuring agency the right to continue manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, or, subject to Engineer's approval, replace same with noninfringing method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part, or modify it so it becomes noninfringing.
- 4.10.3 If appropriate, the Contractor shall furnish the City Contract Representative satisfactory evidence of patent licenses or patent releases covering City-specified proprietary materials, equipment, devices or processes, as the case may be.

4.11 Protection of Persons and Property

- **4.11.1** The Contractor shall be responsible for initiating, maintaining, supervising and directing all safety precautions and programs in connection with the performance of the Contract.
- 4.11.2 The Contractor shall be responsible for the protection of all Work until completion and final payment is made, including any material or equipment to be incorporated whether in storage on or off the Work site.
- 4.11.3 The Contractor shall, at their own expense, replace damaged or lost material, or repair damaged parts of the Work or of other property at the work site or adjacent thereto, and the Contractor and their sureties shall be liable therefore.
- 4.11.4 The Contractor shall assume all risks from floods and casualties and shall make no claim for damages for delay from such causes. However, a reasonable extension of time on account of such delays may be allowed, subject to the conditions contained in Article 6 of these General Conditions.
- 4.11.5 In the event the Contractor encounters on the work site material reasonably believed to be a hazardous material, such as asbestos or polychlorinated biphenyl (PCB), the Contractor shall immediately stop work in the area affected and report the condition to the City Contract Representative.
- 4.11.6 The Contractor shall take all necessary precautions for the safety of employees on the work site and other persons who may be affected thereby, and shall comply with all applicable provisions of Federal, State and Municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. The Contractor shall erect and properly maintain at all times, as required by the condition and progress of the Work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by such features of construction as

protruding nails, hod hoists, well holes, elevator hatchways, scaffolding, window openings, stairways and falling materials.

4.11.7 The Contractor warrants it is fully familiar and shall comply with all of the safety requirements of the Occupational Safety and Health Act (29 U.S.C. Sections 641-678, or as amended or recodified from time to time). Also the Hazard Communication Act relating to the use of hazardous materials (29 C.F.R. 1910-1200, or as amended or recodified from time to time), as promulgated by the Federal Government and as implemented by the State of Arizona, and that it will be solely responsible for all fines and penalties provided for by law for any violation of such Act and, furthermore, shall require all subcontractors to comply with such Acts and with the provisions of this section. Any claims arising out of alleged violations of such Acts are covered by the indemnification set forth in Section 4.12.

4.12 Indemnification and Insurance

4.12.1 To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Cottonwood, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the extent arising from the acts or omissions of the City.

4.12.2 The Contractor Agrees to:

- .1 Obtain insurance coverage of the types and amounts required in this subsection and keep such insurance coverage in force throughout the life of the Contract. The Contractor will provide satisfactory certificates of the required coverage to the Contracting Officer before beginning the Work. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation or reduction in coverage in any policy.
- .2 Include the City as an additional insured on the General Liability Insurance and Automobile Liability Insurance policies with respect to liability arising out of the performance of the Work. Policies shall contain a waiver of subrogation against the City. The Contractor agrees that the insurance required hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- .3 Provide and maintain minimum insurance coverage as follows:

Statutory
\$1,000,000
\$1,000,000
\$1,000,000
\$1,000,000
\$1,000,000
\$1,000,000

Automobile Liability
Insurance Including:

\$1,000,000

- 1. Non-Owned
- 2. Leased
- 3. Hired Vehicles

Builder's Risk Insurance Contract Value (Less Site Preparation)
Including: Fire, Extended Coverage, Vandalism and Malicious Mischief, and Theft.
Builder's Risk insurance shall be required on all vertical construction.

The City reserves the right, at its sole option, to furnish the Builder's Risk Insurance at the City's expense in the event that the City exercises such right, Contractor shall reduce General Conditions and overhead accordingly.

.4 In the event any of the Work is subcontracted, the Contractor shall require the subcontractor to provide Workers' Compensation insurance for all of the subcontractor's employees engaged in the Work, unless such employees are covered by the protection afforded by the Contractor's Workers' Compensation insurance. In case any class of employees engaged in hazardous work under the Contract is not protected under the Workers' Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's general liability insurance for the protection of such of their employees as are not otherwise protected.

5. SUBCONTRACTS AND SEPARATE CONTRACTS

5.1 Subcontracts

- 5.1.1 The Contractor shall ensure that the assigned to this Contract are available throughout the term of the Contract. In the event that the Contractor requests substitution of subcontractors, the Contractor shall obtain prior approval from the City for subcontractor substitution. The Contractor shall ensure that substituted subcontractors are equally qualified and capable. Information on the qualifications of proposed substitutes shall be provided to the City for its consideration and approval prior to substitution taking place.
- 5.1.2 In job-order-contracting, by appropriate written agreement, the Contractor agrees that each subcontractor has been notified in writing of the negotiated amount or coefficient agreed to for billing purposes. Furthermore, by appropriate written agreement, the Contractor agrees that each subcontractor shall be bound to the Contractor by the terms of this Contract. In the event of a conflict between the substance of a written subcontract and the language of this Contract, the language of this Contract shall prevail.
- 5.1.3 Contractor shall ensure that each subcontract shall preserve and protect the rights of the City under the Contract with respect to the work to be performed by the subcontractor. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with sub-subcontractors. In this connection, the Contractor shall make available to each subcontractor, prior to execution of any subcontract, copies of the Contract provisions to which the subcontractor will be bound. Subcontractors shall also make copies of applicable portions of the Contract available to their respective subcontractors.
- 5.1.4 Each subcontract will require the subcontractor to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment to the City in a timely manner, including any claims for extras, extensions of time, and damages for delays or otherwise to the Contractor in the manner provided in the Contract for like claims by the Contractor upon the City.

5.1.5 The Contractor further agrees:

- .1 To be bound to the subcontractor by all the obligations that the City assumes to the Contractor under this Contract, and by all provisions thereof affording remedies and redress to the Contractor from the City.
- .2 To promptly pay the subcontractor in accordance with applicable State statute.
- .3 That, at all times, the subcontractors' total payments shall be proportionate to the value of the labor and materials provided by them. Payment may be preconditioned upon the subcontractors providing the Contractor with requested significant partial or final lien waivers.
- .4 To pay the subcontractor to such extent as may be provided by the Contract or the subcontract, if either of these provides for earlier or larger payments than the above.
- .5 To ensure timely payment to subcontractors for their work as performed and for materials fixed in place, less any applicable retention, despite any delay by the City in making payments to the Contractor for any cause not the fault of the subcontractor.
- .6 To share or forward, as appropriate, with its subcontractors or, as appropriate, with the City, any fire insurance money received by the Contractor under the insurance provisions of the Contract.
- .7 That no claim for services rendered or materials furnished by the Contractor to the subcontractor shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claim originated.
- .8 To give the subcontractor an opportunity to be present and to submit evidence in any Contractual claim, controversy or dispute.
- 5.1.7 Nothing in this Article shall create any obligation on the part of the City to pay to, or to see to the payment of, any sums to any subcontractor, except as may otherwise be required by law.
- 5.1.8 Each subcontract agreement for a portion of the Work is hereby assignable by the Contractor to the City provided that:
 - .1 Assignment is effective at the sole option of the City and only upon termination of the Contract for cause pursuant to Article 9 of these General Conditions, and only for those subcontract agreements which the City determines to accept by notifying the subcontractor in writing, and
 - .2 Assignment is subject to the prior rights of the surety obligated under the Bonds relating to the Contract.

5.2 Separate Contracts

- 5.2.1 The City reserves the right to perform construction or operations related to the Work with the City's own forces and to let separate Contracts in connection with other portions of the Work or other construction or operations on the Work site.
- 5.2.2 The Contractor shall afford other Contractors on the Work site reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with theirs.

- 5.2.3 The City Contract Representative shall coordinate the activities of the City's own forces and of each separate Contractor with the work of the Contractor. The Contractor and all other Contractors on the Work site shall be required to review their construction schedules and cooperate with the City Contract Representative in coordinating the various portions of the Work with the schedules of such separate contractors.
- 5.2.4 If any part of the Contractor's work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the City Contract Representative any defects in such work that render it unsuitable for continuance of the Contractor's Work. Failure to inspect and report may constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's Work, except as to defects not then reasonably discoverable.
- 5.2.5 Costs caused by the Contractor because of delays or by improperly timed activities or defective construction shall be borne solely by the Contractor.
- 5.2.6 If the Contractor causes damage to any separate contractor on the site, the Contractor, upon due notice, agrees to settle with such separate contractor by agreement or arbitration, if he will so settle. If such separate contractor sues the City on account of any damage alleged to have been so sustained, the City shall notify the Contractor, who shall defend such proceedings and, if any judgment against the City arises therefrom, the Contractor shall pay or satisfy it.
- 5.2.7 Should separate contractors on the Work cause any damage, cost or loss to the Contractor, the City shall not be held responsible or liable therefore in any way other than extensions of completion time in accordance with Article 6 of these General Conditions.

6. TIME FACTORS; LIQUIDATED DAMAGES

6.1 Time

- 6.1.1 Unless otherwise provided in the Notice to Proceed, the Completion Time is the number of calendar days, including authorized time extensions, specified for completion of the Work.
- 6.1.2 Completion Time shall commence on the day specified in the Notice to Proceed. The date shall not be postponed on account of the failure of the Contractor, or of any of its subcontractors to take any action required to commence the Work.
- 6.1.3 The date of Substantial Completion is the date certified by the City Contract Representative pursuant to Subsection 7.4.1 of Article 7 of these General Conditions. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.
- 6.1.4 The term "day" as used in the Contract shall mean calendar day.
- 6.1.5 By execution of the Contract documents, or by concurrence with the Notice to Proceed in the case of a job order, the Contractor acknowledges that the time described is a reasonable period for a competent Contractor to complete the Work.
- 6.1.6 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the agreed upon time frame. If the Contractor is delayed on any portion of the Work for any reason whatsoever, it shall expeditiously proceed on other portions of the Work which are not affected by such delay.

6.2 Liquidated Damages

- 6.2.1 The amount of liquidated damages, if applicable, shall be as specified in the Contract documents, or, in the case of a job-order, in the Notice to Proceed.
- 6.2.2 The Contractor has been put on notice that the City shall enforce the liquidated damages set forth in the Contract documents or Notice to Proceed.
- 6.2.3 The Contractor agrees that the City will incur damages if the Contractor fails to complete the Work within the Completion time or any approved extensions thereof and that the liquidated damages specified in the Contract or, in the case of a job-order, in the Notice to Proceed, represents a fair and equitable approximation of the City's damages.

Each calendar day that the Contractor shall fail to achieve Substantial Completion after the calendar date agreed to for the completion of the Work provided for in the Contract, the sum set forth in the Contract documents will be deducted from any monies due the Contractor, not as penalty, but as liquidated damages; provided however, that due account will be taken of any adjustments of the Completion time for the completion of the work allowed under the Contract.

Permission allowing the Contractor to continue and finish any part of the Work after the time fixed for its completion or after the date to which the time for completion may have been extended shall in no way operate as a waiver on the part of the City of any of its rights under the Contract.

Once substantial completion is granted, the Contractor shall achieve final completion within thirty (30) calendar days, unless otherwise agreed upon. If final completion does not occur within the agreed upon number of days, liquidated damages will commence on the first day after the agreed days, until final completion occurs.

6.3 Delays and Time Extensions

6.3.1 It is agreed that the City's only liability for any delay from any cause shall be limited to granting a time extension to the Contractor and that no extended general conditions for any delay will be applicable unless agreed to by the City. There is no other obligation, express or implied, on the part of the City to the Contractor for delay from any cause.

6.3.2 Force Majeure

- .1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means a major occurrence that is beyond the control of the parties affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a sub-contractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.
- .2 If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall immediately notify the other party in writing of such delay of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 6.3.3 The completion time shall be extended when delay in completion of the Work by either the Contractor or the subcontractors is due to any preference, priority or allocation order duly issued by the Federal Government.
- 6.3.4 Time extensions shall only be granted for delays caused by the City, changes authorized in accordance with Article 8 of this agreement, or delays pursuant to sections 6.3.2 and 6.3.3.
- 6.3.5 Should a dispute arise between the Contractor and the City regarding a delay or time extension, the Contractor shall continue progress on the Work until the dispute is resolved.

7. PAYMENTS TO THE CONTRACTOR

7.1 Contract Price; Request for Payment; Schedule of Values

- 7.1.1 The Contract amount or coefficient stated in the Contract documents or, in the case of a job order, in the Notice to Proceed, plus or minus any authorized adjustments, is the amount payable by the City to the Contractor for performance of the Work under the Contract or for a specific job order.
- 7.1.2 During the course of construction, the Contractor shall request payment for work actually performed during the preceding month or some other time period as mutually agreed to, using "ESTIMATE FOR PAYMENT" forms, which are furnished by the City or a City Contract Representative. A schedule of values and an updated project schedule shall accompany the request for payment.

7.2 Certification and Payment

- 7.2.1 The City by mutual agreement may make progress payments on Contracts of less than ninety days and shall make monthly progress payments on all other Contracts as provided for in this paragraph. Payment to the Contractor on the basis of a duly certified and approved estimate for payment of the work performed during the preceding calendar month under the Contract may include payment for material and equipment. An estimate of the work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the City or the City's designee prepares and issues a specific written finding setting forth those items in detail in the estimate of the work that are not approved for payment under the Contract. The City may withhold an amount from the progress payment sufficient to pay the expenses the City reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before Thirty days after the estimate of the work is certified and approved. The estimate of the work shall be deemed received by the City on submission to any person designated by the City for the submission, review or approval of the estimate of the work.
- 7.2.2 On completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, except as qualified in paragraph 7.2.5, payment may be made in full, less authorized deductions. In preparing estimates, the material and equipment delivered on the site to be incorporated in the job shall be taken into consideration in determining the estimated value by the architect, engineer or other person, as specified in the Contract.
- 7.2.3 The Contractor shall pay to the Contractor's subcontractors or material suppliers and each subcontractor shall pay to the subcontractor's subcontractor or material supplier, within seven days of receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed the Contractor or subcontractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest, except that no Contract for construction services may materially alter the rights of any Contractor, subcontractor or material supplier to receive prompt and timely payment as provided under this section. The payments to subcontractors or material suppliers shall be based on payments received pursuant to this section.

Any diversion by the Contractor or subcontractor of payments received for work performed on a Contract, or failure to reasonably account for the application or use of those payments, constitutes grounds for disciplinary action by the Registrar of Contractors. The subcontractor or material supplier shall notify the Registrar of Contractors and the City in writing of any payment less than the amount or percentage approved for the class or item of work as set forth in this section.

- 7.2.4 A subcontractor may notify the City in writing requesting that the subcontractor be notified by the City in writing within five days from payment of each progress payment made to the Contractor. The subcontractor's request remains in effect for the duration of the subcontractor's work on the project.
- 7.2.5. Nothing in this section prevents the Contractor or subcontractor, at the time of application and certification to the City or Contractor, from withholding the application and certification to the City or Contractor for payment to the subcontractor or material supplier for unsatisfactory job progress, defective construction work or materials not remedied, disputed work or materials, third party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor to make timely payments for labor, equipment and materials, damage to the Contractor or another subcontractor, reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum or a reasonable amount for retention.
- 7.2.6 If any payment to a Contractor is delayed after the date due interest shall be paid at the rate of one per cent per month or fraction of a month on the unpaid balance as may be due.
- 7.2.7 If any periodic or final payment to a subcontractor is delayed by more than seven (7) days after receipt of the periodic or final payment by the Contractor or subcontractor, the Contractor or subcontractor shall pay the subcontractor or material supplier interest, beginning on the eighth day, at the rate of one per cent per month or fraction of a month on the unpaid balance as may be due.
- **7.2.8** Notwithstanding anything to the contrary in this section, this section applies only to amounts payable in a construction services Contract for construction and does not apply to amounts payable in a construction services Contract for design services, preconstruction services, finance services, maintenance services, operations services and other related services.
- 7.2.9 The City Contract Representative, with reasonable dispatch, will review the contents of the ESTIMATE FOR PAYMENT submitted by the Contractor, determine the sufficiency of the estimate, satisfy himself that the City has received full value, certify the estimate and submit it through normal channels for payment.
- 7.2.10 Neither the certification nor payment made to the Contractor, nor partial or entire use or occupancy of the Work by the City shall constitute an acceptance of any portion of the Work.

7.3 Payment Withheld

- 7.3.1 If the City Contract Representative is unable to certify a request for payment in whole or in part because, after observing the Work and the data comprising the ESTIMATE FOR PAYMENT, the City Contract Representative determines that the Work has not progressed or the quality of the Work is not in accordance with the Contract, the City Contract Representative shall promptly notify the Contractor. If the City Contract Representative and the Contractor cannot agree on a revised amount, the City Contract Representative will promptly issue a certificate for payment in an amount they determine is justified.
- 7.3.2 The City Contract Representative or other City official, as a result of subsequently discovered evidence, may also withhold or nullify the whole or a part of any certification to such extent as may be necessary to protect the City from loss on account of:

- .1 Defective work not remedied.
- .2 Third party claims filed or reasonable evidence indicating probable filing of such claims.
- .3 Failure of the Contractor to make payments properly to subcontractors or for labor, materials, or equipment.
- .4 Reasonable doubt that the Work can be completed for the unpaid balance of the Contract amount, or reasonable evidence that the Work will not be completed within the Completion time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay.
- .5 Damage to another contractor or to the City.
- .6 Damage to the real or personal property of another and failure to repair or replace the same.
- .7 Persistent failure to carry out the Work in accordance with the Contract.
- 7.3.3 When the grounds for withholding payment have been corrected to the satisfaction of the City Contract Representative or other City official concerned, the City shall proceed to process any amounts due.

7.4 Substantial Completion

- When the Contractor considers that the Work, or a portion thereof which the City has agreed to 7.4.1 accept separately, is ready for its intended use, it shall notify the City Contract Representative in writing that the Work, or the agreed upon portion thereof, is substantially complete and request the City Contract Representative to issue a Certificate of Substantial Completion. reasonable time thereafter, the City Contract Representative will make an inspection of the Work, or the designated portion thereof, to determine the status of completion. If the inspection discloses any item that is not in accordance with the Contract, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item. Contractor shall then submit a request for a re-inspection by the City Contract Representative. When the Work or designated portion thereof is determined to be substantially complete, the City Contract Representative will prepare a Certificate of Substantial Completion for signature of the parties, fixing therein the date of Substantial Completion and establishing the responsibilities of the City and Contractor, pending final payment by the City, for security, maintenance, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list attached to the certificate.
- 7.4.2 Warranties required by the Contract shall commence on the date of Final Completion for a period of two years, except where a specific provision of the Contract provides otherwise.

7.5 Final Completion and Final Payment

7.5.1 Upon receipt of notice from the Contractor that the Work is ready for final inspection and upon receipt of a request for final payment, the City Contract Representative will determine that all items on the punch list have been completed or corrected and the City will make payment for such work or portion thereof as provided for in the Contract.

7.6 Consent of Surety/ Lien Waivers and As-Built Drawings

7.6.1 Final payment shall become due when the Contractor provides to the Contract Officer a Consent of Surety Certificate from their bonding company, or lien waivers, at the Contract Officer's discretion and all completed as-built drawings.

7.7 Partial Utilization

- 7.7.1 The City may occupy or use any portion of the Work which the City and the Contractor agree constitutes a separately functioning and usable part of the Work that can be used by the City without significant interference with the Contractor's performance of the remainder of the Work. Such use or occupancy may commence whether or not the portion is substantially complete, provided the City and the Contractor have accepted in writing their mutual responsibilities regarding the used portion, including but not limited to insurance coverage, maintenance and utilities.
- 7.7.2 Partial use or occupancy of the Work by the City shall not constitute acceptance of Work not complying with the requirements of the Contract.

8. UNCOVERING AND CORRECTION OF WORK; CHANGES IN THE WORK

8.1 Uncovering of Work

- Piping, wiring, ducts, etc., shall not be covered up before proper inspection, approval and certificates, if required, are issued. Should any work that is designated for inspection by the City Contract Representative or the Contract before covering is covered before such inspection, it must be uncovered by the Contractor at their expense when examination is ordered by the City Contract Representative.
- 8.1.2 If a portion of the Work not designated by the City Contract Representative or the Contract for inspection has been covered and the City Contract Representative or a Public Inspector orders such work uncovered for inspection, the Contractor shall immediately uncover such work. If such uncovered work is found to be in accordance with the Contract, an appropriate Change Order shall be issued to compensate the Contractor for the expense of uncovering and replacing the work. If such work is found to be not in compliance with the Contract, the Contractor shall pay such costs, unless the condition was caused by the City or a separate Contractor.
- **8.1.3** The City shall not be responsible for or bear the cost of any re-examination and replacement occasioned by defects in the work caused by subcontractors.

8.2 Correction of Work

- 8.2.1 Correction of Work Before Final Payment: The Contractor shall promptly remove from the site of the Work all materials and/or associated portions of the Work rejected by the City Contract Representative as failing to conform to the Contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract, without expense to the City, and shall bear the expense of making good the work of other contractors destroyed or damaged by such removal or replacement. If the Contractor does not remove such rejected Work and/or materials within a reasonable time, fixed by written notice, the City may remove it and may store the materials at the expense of the Contractor.
- 8.2.2 Should the Contractor fail to repair such defective material and/or workmanship or to make replacements within five (5) calendar days after written notice by the City, it is agreed that the City may, at its sole discretion, make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by the Contractor or his surety.

8.3 Changes in the Work

8.3.1 The City Contract Representative may order extra work or make changes by altering, adding to or deducting from the Work, the Contract price being adjusted accordingly by Change Order without invalidating the Contract. All such work shall be executed under the conditions of the original

Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

- 8.3.2 If, instead of requiring corrections or removal of work not conforming to the requirements of the contract, the work is determined to be acceptable with diminished value in the sole judgment of the City Contract Representative, a change order shall be issued incorporating the necessary revisions in the contract, including an appropriate reduction in the contract price. Such a change order does not require the signature or approval of the Contractor. Such acceptance of non-conforming work shall not constitute a waiver of any other work required under this contract.
- 8.3.3 The value of any extra work or change ordered under the Contract shall be determined in one or more of the following ways:
 - .1 By estimate and acceptance in a lump sum.
 - .2 By unit prices in the Contract or subsequently agreed upon prices.
 - .3 By a fixed fee.

9. SUSPENSION OR TERMINATION OF THE WORK

9.1 Suspension of the Work for Cause; City's Right to Perform the Work

- 9.1.1 If the Contractor fails to correct Work which is not in accordance with the Contract, or persistently fails to carry out the Work in accordance with the Contract, the Contract Officer, after consultation with the City Contract Representative, may order the Contractor in writing to stop the Work, or any portion of the Work, until the cause for such order has been eliminated.
- 9.1.2 If the Contractor fails to prosecute the Work properly or fails to perform any provision of this Contract, the City may, five (5) days after written notice to the Contractor, and without prejudice to any other remedy the City may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor and its surety shall be liable to the City for such deficiency.

9.2 Termination by the City for Cause

- 9.2.1 The City, upon certification by the City Contract Representative, without prejudice to any other right or remedy of the City and after giving the Contractor seven (7) days written notice, may terminate this Contract as to all or any part of the Work for any of the following reasons:
 - .1 If the Contractor abandons the Work, or unnecessarily delays the Work.
 - .2 If the Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials or competent subcontractor.
 - .3 If the Contractor fails to make payment to subcontractor for materials or labor in accordance with the respective agreements between the Contractor and the subcontractor or as expressly set forth herein.
 - .4 If the Contractor persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction, or persistently violates the conditions or covenants of this Contract.
 - .5 If the Contractor should be adjudged bankrupt.

- .6 If the Contractor should make a general assignment for the benefit of its creditors or if a receiver should be appointed on account of its insolvency.
- .7 If the Contractor is otherwise in substantial breach of a provision of the Contract as determined by the City.
- 9.2.2 Upon termination of the Contract for any of the above reasons, the City, subject to any prior rights of the surety, may:
 - .1 Take possession of the Work and of all materials, equipment, tools, and construction equipment and machinery at the Work site or adjacent thereto belonging to the Contractor.
 - .2 Accept assignment of subcontracts pursuant to Subsection 5.1.8 of Article 5 of these General Conditions.
 - .3 Finish the Work by whatever reasonable method the City may deem expedient. In completing the Work by a new contractor or by doing the Work itself, the City may use such equipment, materials, supplies, machinery, implements, tools and plant of the Contractor in the City's possession and may make all necessary repairs and replacements thereto.
- 9.2.3 If the City terminates the Contract for one of the reasons stated in Subsection 9.2.1, the Contractor shall not be entitled to receive any further payment.
- 9.2.4 The cost of fully completing the Work provided for under any new contract shall include the sum or sums of money to be paid by the City to other Contractors, all costs of repairs and replacements of machinery, implements, tools and plant of the Contractor hereunder, and also all sums of money paid for additional management and administrative services, including but not limited to the cost of the City Contract Representative's additional services and added expenses made necessary by the termination of the Contract.
- 9.2.5 If the unpaid balance of the Contract price exceeds costs of finishing the Work, such excess may, at the City's discretion, be paid to the Contractor. If such costs exceed the unpaid balance, the City may sell all materials, supplies, machinery, implements, tools and plant of the Contractor's then on hand, at public sale, on giving the Contractor twenty (20) days notice of the time and place of such sale, and the net proceeds derived from the sale of said property shall be applied against such costs. Should the amount received from the sale be insufficient to pay such deficiency, the Contractor and its surety shall be liable to pay the amount of the deficiency.

9.3 Suspension by the City for Convenience

- 9.3.1 The City may, without cause, order the Contractor in writing to suspend or interrupt the Work in whole or in part for such period of time as the City may determine whenever such suspension or interruption would be in the best interest of the City.
- 9.3.2 If the City suspends the Work for convenience, an adjustment shall be made for substantiated increases in the cost of performance of the Contract, if any, including profit on the increased cost of performance, caused by suspension or interruption. No adjustment shall be made to the extent:
 - .1 That performance is, was or would have been so suspended or interrupted by another cause for which the Contractor is responsible, or
 - .2 That an equitable adjustment is made or denied by the City.

9.4 Termination by the City for Convenience

- 9.4.1 The performance of the Work under this Contract may be terminated by the City, in whole or in part, in accordance with this clause whenever the City reasonably determines that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of the Work is terminated, and the date upon which such termination becomes effective.
- 9.4.2 If the Contract is terminated by the City as provided herein, the Contractor shall receive compensation for any Work performed and accepted, together with profit in proportion to the Work performed and accepted. The compensation shall include payment for contractual obligations reasonably incurred prior to termination. No amount shall be allowed for anticipated profit on unperformed Work.
- 9.4.3 In the event the City terminates the Work, in whole or in part, for cause pursuant to Section 9.2 of this Article 9 and the termination is later deemed to be unjustified, then such termination shall be automatically deemed a termination for convenience and the provisions of this Section 9.4 shall apply.
- **9.4.4** Termination of the Contract or portion thereof by the City for convenience shall not relieve the Contractor of their contractual responsibilities for the Work completed, nor shall it relieve the surety of its obligation for and concerning any just claim arising out of the Work completed.

9.5 Contractor's Right to Terminate Contract

- **9.5.1** The Contractor may terminate the Contract for any of the following reasons:
 - .1 If the Work should be stopped under an order of any court of competent jurisdiction or other public authority for a period in excess of one (1) month through no act or fault of the Contractor or of anyone directly or indirectly employed by him.
 - .2 If the City has failed to pay the Contractor within sixty (60) days after the date when any sum is certified for payment by the City Contract Representative, or
 - .3 If repeated suspensions or interruptions ordered by the City pursuant to Section 9.3 total in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or one hundred twenty (120) days in any three hundred sixty-five (365) day period, whichever is less.
- 9.5.2 If one of the above reasons exists, the Contractor may, upon seven (7) additional days, written notice to the City Contract Representative, stop Work and terminate the Contract and recover payment from the City for all Work executed and accepted by the City and any loss sustained upon any plant or materials and reasonable profit and damages.

10. CLAIMS AND DISPUTES

10.1 City Contract Representative's Resolution of Claims and Disputes; Review by Contract Officer

- 10.1.1 This Article relates to claims for additional compensation and any other differences between the parties arising under and by virtue of the Contract. Such claims are to be resolved at the earliest possible time and at the first responsible level so as to increase the possibility that such matters will be resolved without the vexation of an administrative hearing process, arbitration or litigation.
- 10.1.2 All claims, including but not limited to, claims relating to adjustments or interpretations of the Contract, payments of money, or other relief with respect to the terms of the Contract, shall be

- referred initially in writing to the City Contract Representative for action. The responsibility to substantiate claims shall rest with the party making the claim.
- 10.1.3 Claims by either party must be made within twenty-one (21) days after the event giving rise to the claim or within twenty-one (21) days after the claimant first becomes aware of the condition giving rise to the claim, whichever is later.
- 10.1.4 Pending final resolution of a claim, the Contractor shall proceed diligently with performance of the Contract and the City shall continue to make payments in accordance with the Contract.
- 10.1.5 The City Contract Representative shall, within twenty-one (21) days of receipt of a claim, issue one of the following:
 - .1 Issue a decision either rejecting or approving the claim.
 - .2 Suggest an equitable compromise of the claim.
 - .3 Provide a schedule to the Contractor indicating when they expect to be able to take action, which shall be within a reasonable time.
- 10.1.6 The City Contract Representative may require the submission of additional documentation from the Contractor to facilitate a decision.
- 10.1.7 The Contractor shall have ten (10) days from the date of the City Contract Representative's final decision rejecting or approving a claim, or suggesting a compromise, within which to accept or object to the decision. Failure of the Contractor to accept or object to the decision in writing within such ten (10) day period shall be deemed an acceptance of the decision. If the Contractor rejects the decision of the City Contract Representative in writing within such ten (10) day period, the matter shall be referred to the Contract Officer for de novo review.
- 10.1.8 The Contract Officer shall have sixty (60) days from receipt of a written objection by the Contractor to the City Contract Representative's final decision, or such longer period as the parties may stipulate in writing, to review the matter and issue a response. During such period, the Contract Officer may require such additional documentation or testimony as deemed necessary to support his/her response.

11. MISCELLANEOUS PROVISIONS

11.1 Governing Law

11.1.1 The Contract shall be governed and construed according to the laws of the Cottonwood City Code and the State of Arizona.

11.2 Written Notice

11.2.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last known business address known to the party giving notice.

11.3 Conflict of Interest

11.3.1 The City shall also have the right to terminate this Contract pursuant to the conflict-of- interest provisions of A.R.S. Sec. 38-511 and to exercise any and all remedies provided in such statute. The City may cancel this Contract if any person significantly involved in negotiating, drafting, securing or obtaining this Contract for or on behalf of the City of Cottonwood becomes an

employee in any capacity of any other party or a consultant to any other party with reference to the subject matter of this Contract.

11.4 Contractor

- 11.4.1 It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.
- 11.4.2 Contractor shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the City, and that such days do not accumulate for the use of same at a later date.
- 11.4.3 The City of Cottonwood will not provide any insurance coverage to Contractor, including Workers' Compensation coverage. The Contractor is advised that taxes or social security payments shall not be withheld from a City payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

11.5 Gratuities

11.5.1 The City may, by written notice to the Contractor, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such contract. In the event this Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

11.6 Provisions Required By Law

11.6.1 Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

11.7 Severability

11.7.1 The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the invalid provision or application.

11.8 Interpretation - Parol Evidence

11.8.1 This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

11.9 Rights and Remedies

No provision in this document or in the Contractor's response shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of either party to insist upon the strict

performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services, obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

11.10 Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

CONSTRUCTION SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this 17th day of July, 2012 , by and between the City of Cottonwood, a municipal corporation organized and existing under the laws of the State of Arizona, hereinafter called the
"City", and Kinney Construction Services of the City of Flagstaff, County of Coconino, and
State of <u>Arizona</u> hereinafter called the "Contractor".
WITNESSETH: That the Contractor and the City, in consideration of the mutual covenants herein contained, agree as follows:
Contract Name: JOB ORDER CONTRACT (JOC) FOR UNDERGROUND CONTRACTING
Contract Number:
Description:
Term:

1. Notice to Proceed, Completion Time, and Liquidated Damages

- A. It is agreed that the City Representative will issue the Notice to Proceed with the Work to be performed under this Contract within twenty (20) consecutive calendar days after the date of execution of this Agreement, except in job order contracts where a separate Notice to Proceed will be issued for each individual job order.
- B. The Contractor agrees that the Work shall be prosecuted promptly, regularly, diligently and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.
- C. Liquidated Damages. Completion times will be specified in the Notice to Proceed. Applicable liquidated damages shall be assessed for each day the Work remains incomplete after the scheduled completion date. This amount is agreed upon because of the impracticability and extreme difficulty of ascertaining the actual damages the City will sustain on account of late completion.

2. Miscellaneous

- A. Guarantee. The Contractor shall guarantee all work under this Agreement against defects of material and workmanship for a minimum of two years from the date of Final Completion.
- B. Assignment. Neither party to this Agreement shall assign the Agreement or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the City.
- C. Contract Documents. The following listed documents constitute the Contract Documents and they are all as fully a part of this Agreement as if repeated herein:
 - Any and all amendments, Supplementary General Conditions and Special Requirements included herein.
 - Construction Services Agreement.
 - General Conditions for Construction.
 - 4) Special Terms and Conditions.
 - 5) Scope of Work, including any and all Standard, Special, Technical, and Supplementary Specifications included herein.
 - 6) Performance and Payment Bonds.
 - Insurance Requirements.

Precedence. In the event of any inconsistency between any of the terms of the documents enumerated above, such inconsistency shall be resolved by giving precedent to the terms of the above documents in the order listed. Anything in these contract documents to the contrary notwithstanding, the provisions of all pertinent general public laws of the State of Arizona in effect at the time of the execution of this Agreement shall be a part of the Agreement between the parties and shall take precedence over all of the other contract documents.

IN WITNESS THEREOF, the parties hereto have executed three (3) identical counterpart copies of this Agreement on the date and year first written above, each of which copies shall for all purposes be deemed an original hereof.

CITY OF COTTONWOOD	CONSULTANT //
Diane Joens, Mayor	By:
APPROVE AS TO FORM	ATTEST (If Corporation):
Steven Horton, City Attorney	Secretary
ATTEST	SEAL
Marianne Vimenez City Clerk	

1. INTRODUCTION

Notice is hereby given that the City of Cottonwood (City) is conducting a competitive one-step process to retain up to three (3) Contractors for a Job Order Contract (JOC) to provide annual Underground Contracting services for the City of Cottonwood. Individual job orders should not exceed two hundred fifty thousand dollars (\$250,000). The term of this contract will be one (1) year with three (3) one-year renewal options. However, services will be requested on an as-needed, if-needed basis and the resultant contract is neither exclusive nor a commitment by the City that the Contractor's services will be required.

2. BACKGROUND:

Job Order Contracting is an alternative delivery method for construction of public works projects. JOC's differ from the standard project-specific, low bid contracts in that they are indefinite-quantity contracts, which can be awarded on the basis of qualifications. Best value may be considered in awarding the JOC or in awarding job orders under the JOC contract.

3. SCOPE OF REQUIRED SERVICES:

The City of Cottonwood is in need of Water and Wastewater Utilities, Excavating and Storm Water Drainage Job Order Contracting which includes but is not limited to:

- Replacement of water and sewer service lines.
- · Replacement of water and sewer main lines.
- Installation of new water and sewer main and service lines.
- · Sewer manhole installation and rehabilitation.
- Mainline water valve replacement and new installation.
- Replacement and installation of fire hydrants.
- General excavating, compaction and grading.
- · Confined space pipefitting and repair.
- · Potholing for utility location.
- · Pipefitting and replacement/installation of booster stations, wells and wastewater system components.
- Asphalt patching and surfacing including subgrade and base preparation.
- · Concrete work including slabs, sidewalks, curb and gutter, etc.
- Flood control and drainage work.
- Demolition of structures.
- Other Miscellaneous tasks as required.

4. SPECIFICATIONS

All work shall be conducted by an underground contracting firm properly licensed by the State of Arizona and shall conform to Arizona Department of Environmental Quality (ADEQ) rules and guidelines.

5. SAFETY

The Contractor shall provide sufficient safety devices (cones, barricades, tape) to establish a safety zone around the work area. The Contractor shall submit a traffic control plan and provide its personnel with safety vests for projects in the right of way or where vehicular traffic is present, or as requested by the City.

During the construction process, the Contractor shall comply with all applicable federal, state and local (City of Cottonwood) health and safety laws and regulations including, but not limited to all applicable "OSHA Standards for the Construction Industry" including, but not limited to, 29 CFR Part 1926, Subpart P – Excavations. Knowing and following OSHA Safety Standards is the Contractor's responsibility. The City may stop construction on a project until safety concerns have been corrected.

6. CLEAN UP

The Contractor shall clean up all trash and debris generated by their work in a manner acceptable to the using department.

TO THE CITY OF COTTONWOOD:

The Undersigned hereby offers and agrees to enter into negotiations with the City to provide the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the solicitation.

For clarification, contact:

KINNE (OWSTRUCTION SENVICE)

Name: Tim KINNE (OWSTRUCTION SENVICE)

Name: Tim KINNE (OWSTRUCTION SENVICE)

Phone: 928-779-2820

Phone: 928-773-4696

Fax: 928-773-4696

Email: TKO KINNEY CON STRUCTION IN TO TIM KINNEY CONSTRUCTION IN THE CONSTRUCTION IN THE

RECEIPT OF ADDENDA:

Proposer acknowledges receipt of the following Addenda relating to the Request for Qualifications (RFQ) for Roadway and Utility Design Engineering Services for 10TH Street between Mingus Avenue and Main Street in Cottonwood, Arizona.

Addendum No. 1	Date 06/14/2012
Kinney Construction Services Company Name	Gabriella Smith Representative Name (Print)
Academic Signature	07/30/2012 Date

NON-COLLUSION AFFIDAVIT

STATE OF: Arizona)
STATE OF: Arizona) SSS) SSS)
Kinney Construction Services, Gabriella Smith (Name of Company, Representative)
being first duly sworn, deposes and says:
That she/he is Vice President of Kinney Construction Services (Title) (Name of Company) and
That pursuant to Section 112 (C) of Title 23 USC or other applicable laws, he/she certifies as follows:
That neither he/she nor anyone associated with the said
(Name of Company)
has, directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding for the bid for the:
Job Order Contracting for Underground Contracting
This bid is genuine and not made in the interest of or on behalf of any undisclosed firm or corporations and is not submitted to conform to any agreement or rules of any group, association, organization or corporation. Bidder has not submitted a false bid or solicited whether directly or indirectly with any other Bidder to submit a false bid which would give one particular bid any advantage over others or the owner. By: (Signature of Individual/Representative)
STATE OF: Arizona) SS. COUNTY OF: Coconino)
On this the 30th day of July , 20 12, before me, the undersigned NOTARY PUBLIC, personally appeared Cabriella Smith, who acknowledged to me that they executed the foregoing instrument for the purposes therein contained.
IN WITNESS WHEREOF I hereunto set my hand and official seal. Carol Sernett SEAL
My Commission Expires: 3, 2016 CAROL SENNETT Notary Public - State of Artzona COCONINO COUNTY My Commission Expires February 3, 2016

DISCLOSURE OF RESPONSIBILITY STATEMENT

A.	List any convictions of any person, subsidiary, or affiliate of the company, arising out of obtaining, or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
В.	List any convictions of any person, subsidiary, or affiliate of this company for offenses such as embezzlement, theft, fraudulent schemes, etc. or any other offenses indicating a lack of business integrity or business honesty, which affects the responsibility of the contractor. N/A
C.	List any convictions or civil judgments under state or federal antitrust statutes. N/A
D.	List any violations of contract provisions such as failing to perform (without good cause), or unsatisfactory performance, in accordance with the specifications of a contract.
E.	List any prior suspensions or debarments by any governmental agency.
F.	List any contracts not completed on time.
G.	List any penalties imposed for time delays and/or quality of materials and workmanship.
H.	List any documented violations of federal or state labor laws, regulations, or standards, occupational safety and health rules. N/A
I, G	abriella Smith , as Vice President
	Name of individual Title & Authority
of_	Company Name, declare under oath that the above statements, including
any st	(Signature of Individual/Representative)
TATS	EOF: Arizona)
	NTY OF: Coconino) ss.
On thi	is the 30th day of July , 20 12 , before me, the undersigned NOTARY PUBLIC, nally appeared Cabriella 5mith, who acknowledged to me that they executed the foregoing ment for the purposes therein contained.
IN WI	ITNESS WHEREOF I hereunto set my hand and official seal. SEAL
Co	Wol Sennett My Commission Expires: 3, 2016
NOTA	ARY PUBLIC CAROL SENNETT Motary Public - State of Artzona COCONINO COUNTY My Commission Expires February 3, 2016

CERTIFICATE OF INSURABILITY

I hereby certify that as a Bidder to City of Cottonwood (City) for Solicitation No. 2012 - Pw-18 I am fully aware of insurance requirements contained in the Contract and by the submission of this bid. I hereby assure City that I am able to produce the insurance coverage required should I be selected to be awarded the Contract.

Should I be awarded the Contract by City and then become unable to produce the insurance coverage specified within ten (10) working days, I am fully aware and understand that this shall constitute a material breach of this Contract and shall be subject to penalties up to and including termination of the Contract at the sole discretion of the City. I also understand and am fully aware that I may not be considered for further projects by City.

Kinney Construction Services

Signature of Bidder

Company

O7/30/12

CONTRACTOR IMMIGRATION WARRANTY

(To Be Completed by Contractor Prior to Execution of Contract)

A.R.S. § 41-4401 (Government procurement, E-verify requirement, definitions) requires as a condition of your Contract, verification of compliance by the Contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the Contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number:			
Name (as listed in the contract	: Kinney Co	nstruction Services	
Street Name and Number:	120 N. Bear	ver street suite 100	
City: Flagstaff Si	ate: AZ	Zip Code: 86001	

I hereby attest that:

- The Contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this Contract;
- The Contractor shall verify, through the U.S. Department of Homeland Security's E-Verify program, the
 employment eligibility of each employee who provides services or labor in Arizona for wages or other
 remuneration, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to
 Contractor.
- All subcontractors performing work under this Contract comply with the Federal Immigration and Nationality Act
 (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status
 of their employees.
- 4. The Contractor acknowledges that a breach of this warranty by the Contractor or by any subcontractor or subsubcontractor under this Contract shall be deemed a material breach of this Contract, and is grounds for penalties, including termination of this Contract, by Owner.
- 5. Owner retains the legal right to inspect the papers of Contractor, and any subcontractor and sub-subcontractor employee who performs work under this Contract, and to conduct random verification of the employment records of Contractor and each subcontractor and sub-subcontractor who works on this Contract, to ensure that Contractor and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

Signature of Co	ontractor (Employer) or Authorized Designee:
	Gabriella Smith
Γitle:	Vice President
Date (month/da	y/year): 07/30/12

STATUTORY PAYMENT BOND

(Penalty of bond must be 100% of the Contract Amount.)

KNOW ALL MEN BY THESE PRESENTS:

That,	as	Principal, and	
	ly bound unto the City of Cot	tonwood, Arizona, a municipa	l corporation (hereinafter called
the Obligee) in the penal sum	n of		dollars (\$), for
	vell and truly to be made we brally, firmly by these presents.	oind ourselves, our heirs, execu	utors, administrators, successors
hereinafter called the Contract			
which Contract shall be deer agreed to furnish a bond such		set forth herein, and under the	e terms thereof the Principal has
to all persons supplying labor	r or materials to him or his sub ent or extension of or addition t	contractors in the prosecution	all promptly pay all moneys due of the work provided for in said ation shall be void, otherwise to
of Title 34, Chapter 2, Articl to such persons and shall b	e 2, of the Arizona Revised St	atutes, all rights and remedies with the provisions, condition	er to comply with the provisions on this bond shall insure solely s and limitations of said Title,
The prevailing party or any p as may be fixed by the court		on this bond shall be entitled to	such reasonable attorney's fees
IN WITNESS WHEREOF t deemed an original thereof, h	two (2) identical counterparts ave been duly executed by the	of this instrument, each of v Principal and Surety named, or	which shall for all purposes be not the day of
Principal	Seal	Surety	Seal
Agency of Record			
NOTE: A certified copy of Po In the event the Power of At	ower of Attorney of the persons storney attached hereto is revo	s signing for the Surety Compa ked, the Surety shall notify the	ny must be filed with the Bond. e city Clerk directly in writing.

Said Power of Attorney shall remain in full force and effect until such direct notice is given to the City.

STATUTORY PERFORMANCE BOND

(Penalty of this bond must be 100% of the Contract amount.)

KNOW ALL MEN BY THESE PRESENTS of the Purchasing Agent on	: That the	City of Cottonwood, Arizona, a municipal co, 20 has awarded to	rporation, by action
hereinafter designated as the "Principal", a Co	ontract for the	he construction of	
which Contract is hereby referred to and made	e part hereo	f as fully and to the same extent as if copied a	t length herein; and
WHEREAS, said Principal is required under 2, of the Arizona Revised Statutes, to furnish			, Chapter 2, Article
NOW, THEREFORE, we the Principal and			a cornoration
NOW, THEREFORE, we the Principal and _ organized and existing under the laws of the S	state of	with its principal off	ice in the City of
, (hereinafter called Cottonwood, a municipal corporation, (herein	the Suret	v), as Surety are held and firmly bound	unto the City of
dollars (\$), for the payment whereof, the said Princip	oal and Surety bind
themselves, and their heirs, administrators, presents.	executors,	successors and assigns, jointly and several	ly, firmly by these
NOW, THEREFORE, the condition of this of all the undertakings, covenants, terms, condition contract and any extension thereof, with or with the Contract, and shall also perform and fulfit and all duly authorized modifications of said Surety being hereby waived; then the above of PROVIDED, HOWEVER, that this bond is a Arizona Revised Statutes, and all liabilities of Title, Chapter and Article to the extent as if it The prevailing party or any party which recovers may be fixed by the court of a judge thereof	ditions and thout notice Il all the ur Contract the bligation shape executed put on this bone were copied	agreements of said Contract during the or e to the Surety, and during the life of any guar idertakings, covenants, terms, conditions, and that may hereafter be made, notice of which re hall be void, otherwise to remain in full force a ursuant to the provisions of Title 34, Chapter d shall be determined in accordance with the d at length herein.	iginal term of said anty required under agreements of any modifications to the and effect. 2, Article 2 of the provisions of said
as may be fixed by the court of a judge thereo	r.		
IN WITNESS WHEREOF two (2) identical deemed an original thereof, have been duly ex, 20	counterpartecuted by the	rts of this instrument, each of which shall the Principal and Surety named, on the	for all purposes be day of
Principal	Seel	G	
Filincipal	Seal	Surety	Seal
Agency of Record			

NOTE: A certified copy of Power of Attorney of the persons signing for the Surety Company must be filed with the Bond. In the event the Power of Attorney attached hereto is revoked, the Surety shall notify the City Clerk directly in writing. Said Power of Attorney shall remain in full force and effect until such direct notice is given to the City.

CONSENT OF SURETY TO FINAL PAYMENT AND FULL RELEASE OF CONTRACT RETAINAGE OR SUBSTITUTE SECURITIES

payment bond for the	ety (hereinafter payment of labor	"Surety"), having provided the City of Cottonwood and material provided to the Contractor,	d (hereinafter "City") with a
(hereinafter "Contracto	or") in connection	n with City of Cottonwood Contract No. payment and full release of all retainage or substitute	, (hereinafter
by City in connection	with the Project.	payment and this release of an retaining of substitute	securities to Contractor neig
Surety further releases asserted against City connection with the Pre	as a result of C	laims, past, present, future, known or unknown which ity's final payment and release of the retainage or	it may assert or could have substitute securities held in
release of retainage o	r substitute secu	e City of any liability or responsibility in connection urities to the Contractor in connection with the Project.	with final payment and full ect and shall in no way be
Surety		Seal	
STATE OF:)		
COUNTY OF:) ss.		
IN WITNESS WHERE before me, the undersig purposes therein contain	ned NOTARY P	has executed this instrument thisday ofUBLIC, who acknowledged to me that they executed the	, 20, the foregoing instrument for the
IN WITNESS WHERE	OF I hereunto set	my hand and official seal.	
NOTA BY PURE		SEA	L
NOTARY PUBLIC			
My Commission Expire	S;		

TIFFANY

SPECIAL TERMS AND CONDITIONS

- Number of Contracts to be Awarded. The City intends to award up to three (3) contracts for the services described herein.
- 2. Basis for Awarding Individual Job Orders. In the event the City awards more than one (1) contract for these services, individual job orders will be awarded based upon consideration of the firm's ability to complete the work expeditiously and the proposed cost. The City intends to request price and schedule proposals from all contracted Contractors for each individual job order. However, when quoting individual job orders is impracticable, the City reserves the right to award job orders as it deems to be in its best interest.

Scope, schedule, price, and liquidated damages (if applicable) are agreed upon in a fully executed Notice to Proceed letter prior to Contractor beginning the work.

The Contractor shall be available on a five (5) day work basis throughout the term of the contract unless notified in writing by the City that this requirement may be temporarily waived due to the Contractor's approved written request or a reduced need by the City. The Contractor must be available to commence work on assignments within one week from award of an individual job order.

- 3. Contract Term and Renewal. The term of this contract shall commence upon award and shall remain in effect for a period of one (1) year, unless terminated, canceled or extended as otherwise provided herein. The Contractor agrees that the City of Cottonwood shall have the right, as its sole option, to renew the contract for three (3) additional one (1) year periods, or portions thereof. If the City chooses to exercise this option, all terms, conditions, and provisions of the original contract shall remain the same and apply during the renewal period with the possible exception of fee basis and minor scope additions and/or deletions.
- 4. Compensation and Method of Payment. In consideration of the performance of the services described in the Scope of Services of each individual job order and pursuant to the master Scope of Work herein, the City shall pay the Contractor in accordance with the negotiated contract rates, and the Contractor shall charge the City only in accordance with those same rates.

Compensation under this contract should not exceed \$250,000 per individual job order unless a waiver is requested of and granted by the Administrative Services General Manager.

The City will pay the Contractor following the submission of itemized invoice(s) for the service rendered. No payment shall be issued prior to receipt of material or service and correct invoice.

All requests for payment shall follow a format to be approved by the City Representative. Invoices shall be submitted monthly on a job-by-job basis.

- 5. Bonding Requirements. Contractor shall file with the City, prior to the time of execution of the contract and annually, if the term of this contract is extended by the City, payment and performance bonds in the forms prescribed by the City unless bonding per project. The bonds must cover all construction performed under job orders. The amount of the bonds provided by the Contractor must always be at least equal to the total amount of the contract prices for construction work under job orders issued and not complete. Contractor agrees to provide such additional bonding as may be required to satisfy this requirement, as provided under A.R.S. 34-610. Bonds may be provided as follows: annual bonds in the amount designated by the agency, or bonding per each individual job. Successful contractor(s) will designate bonding methodology prior to contract award.
- 6. **Performance Rating.** At the completion of each term or termination of this contract, the City will evaluate the Contractor based on performance under this contract. This rating will be used in the overall evaluation of the Contractor when applying for future work with the City.
- Audit and Inspection of Records. The Contractor shall permit the authorized representatives of the City of Cottonwood to inspect and audit any books, documents, papers, data and records relating to its performance under

the contract until the expiration of three (3) years after final payment under this contract. The City shall have the right to audit and/or examine such records at any time during the progress of this contract and shall withhold payment if such documentation is found by the City to be incomplete or erroneous.

The following access to records requirements apply to this contract:

The Contractor agrees to provide the City of Cottonwood or any of its authorized representative's access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the City of Cottonwood or any of its duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

- 8. Contract Amendments. The Administrative Services Department has the sole authority to:
 - A) Amend the contract or enter into supplemental verbal or written agreements;
 - B) Grant time extensions or contract renewals;
 - C) Otherwise modify the scope or terms and provisions of the contract.

The contract shall only be modified with the approval of the Administrative Services General Manager. Except in the case of documented emergency, approval must be granted prior to performance. Any contract modification not explicitly approved by the Administrative Services General Manager through a written contract amendment or change order is performed at the sole risk of the Contractor and may not be eligible for payment by the City.

- 9. Child/Sweat-Free Labor Policy. The Contractor shall comply with all applicable provisions of the United States Federal and State Child Labor and Worker's Right laws and agrees if called upon to affirm in writing, that they, and any subcontractor involved in the provision of goods to the City, are in compliance.
- 10. Federal Immigration Laws and Regulations. The Contractor warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214(A) and that it requires the same compliance of all subcontractors under this contract. Contractor acknowledges that pursuant to A.R.S. § 41-4401 and effective September 30, 2008, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract. The City retains the legal right to audit the records of the Contractor and inspect the papers of any employee who works for the Contractor to ensure compliance with this warranty and the Contractor shall assist in any such audit. The Contractor shall include the requirements of this paragraph in each contract with subcontractors under this contract.

If the Contractor or subcontractor warrants that it has complied with the employment verification provisions prescribed by sections 274(a) and 274(b) of the Federal Immigration and Nationality Act and the E-verify requirements prescribed by A.R.S. § 23-214(A), the Contractor or subcontractor shall be deemed to be in compliance with this provision. The City may request proof of such compliance at any time during the term of this contract by the Contractor and any subcontractor.

- 11. (ADA) Americans with Disabilities Act. The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (Public Law 101-336, 42 U.S.C. 12101-12213, 47 U.S.C. 225 and 611, and all regulations thereto), and the Arizonans with Disabilities Act of 1992 (A.R.S. 41-1492 et seq., and all regulations pertaining thereto).
- 12. Certification of Compliance with A.R.S. Section 35-397. By signing this contract, the Contractor certifies that it does not have scrutinized business operations in Iran as required by A.R.S. sec. 35-397. If the City determines that the Contractor has submitted a false certification, the City may impose remedies as provided in the Cottonwood Procurement Code up to and including termination of this contract.

- 13. City of Cottonwood Business License. The Contractor shall maintain in current status all Federal, State, and local registrations, licenses and permits, including a City of Cottonwood business registration, required for the operation of the business conducted by the Contractor as applicable to this contract.
- 14. Arizona Law. This contract shall be governed and interpreted according to the laws of the State of Arizona.
- 15. Jurisdiction and Venue. The parties agree that this contract is made in and shall be performed in Yavapai County. Any lawsuits between the Parties arising out of this contract shall be brought in the courts of Yavapai County in the State of Arizona, which shall have exclusive jurisdiction over such lawsuits.
- 16. Fees and Costs. Except as otherwise agreed by the parties, the prevailing party in any adjudicated dispute relating to this contract is entitled to an award of reasonable attorney's fees, expert witness fees and costs including, as applicable, arbitrator fees; provided, however, that no award of attorney's fees shall exceed ten percent (10%) of the damages awarded the prevailing party unless the non-prevailing party has been determined to have acted in bad faith or in a frivolous manner during the adjudication.
- 17. Notices. All notices or demands required to be given pursuant to the terms of this contract shall be given to the other party in writing, delivered by hand or registered or certified mail, at the addresses set forth below, or to such other address as the parties may substitute by written notice given in the manner prescribed in this paragraph.

In the case of CITY:

In the case of CONTRACTOR:

City of Cottonwood Public Works Department Engineering Division 1490 W Mingus Avenue Cottonwood, AZ 86326 (928) 634-8033

Company Name: TIFFANY CONSTRUCTION CO. HAC-Contact: HEPB C. TIFFANY TI

Address: 75 KAWF PUG City, State, Zip: 50000 Az 86336 Telephone Number: 928-204-9817

Notices shall be deemed received on date delivered, if delivered by hand, and on the delivery date indicated on receipt if delivered by certified or registered mail.

GENERAL CONDITIONS FOR CONSTRUCTION

1. DEFINITIONS

Wherever used in these General Conditions or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

Administrative Services General Manager - - the person acting as Director of the City's Purchasing Manager and who has authority to award and revise City solicitations and contracts for construction, construction services, and construction-related services as necessary.

Amendment - written or graphic instrument issued prior to the due date which clarifies, corrects or changes the Solicitation.

Architect/Engineer - the person licensed to practice architecture/engineering by the State of Arizona and who is identified as the Architect/Engineer of Record. May be utilized to provide construction administration services.

Bonds - bid, performance and payment bonds and other instruments of security.

Change Order - a document approved by the City Contract Representative and which is signed by the Contractor and the City's Administrative General Manager or duly authorized designee and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Completion time, issued on or after the effective date of the Contract.

City - means the City of Cottonwood, Arizona, a municipal corporation.

City Contract Representative - the City official administering the Contract for the City of Cottonwood.

Completion Time - the number of consecutive calendar days agreed to by the City and Contractor for completion of the Work, which may be revised by written Change Order.

Construction – the process of building, altering, repairing, improving or demolishing any public structure or building or other public improvements of any kind to any real public property.

Construction-Manager-At-Risk – a project delivery method in which there is a separate contract for design services and a separate contract for construction services, with design and construction taking place in sequential or concurrent phases, and in which finance services, maintenance services, operations services and preconstruction services may be included.

Construction Services – either of the following for construction-manager-at-risk, design-build and job-order-contracting project delivery methods:

- a) construction, excluding services, through the construction-manager-at-risk or job-ordercontracting project delivery methods;
- a combination of construction and, as elected by the City, one or more related services, such as finance services, maintenance services, operations services, design services and preconstruction services.

Contract - the written agreement and all associated attachments, drawings, amendments and change orders executed between the City and the Contractor covering the Work to be performed.

Contract Price - the amount payable by the City to the Contractor for satisfactory completion of the Work, and as specified in the Contract as may be amended by written Change Order, or, in the case of a job- order contract, in the Notice to Proceed.

Contract Officer - the City official who conducts the solicitation process to secure a Contractor for the Work and who acts under the authority and direction of the City's Administrative Services General Manager and in accordance with the Cottonwood Procurement Code.

Contractor - the person, firm or corporation with whom the City has entered into the Contract.

Design-Build – the process of entering into and managing a contract between the City and a contractor in which the Contractor agrees to both design and build a structure and in which design and construction services may be in sequential or concurrent phases, and which may include finance services, maintenance services, operations services, design services and preconstruction services.

Design Services - architect services, engineer services or landscape architect services.

Drawings - the graphic and pictorial portions of the contract, wherever located and whenever issued, showing the configuration, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

Estimate for Payment - a form furnished by the City or an approved form submitted by the Contractor in lieu of city furnished form, and is required to be used when submitting requests for payments for work actually performed and materials supplied during a an agreed-to preceding period of time.

Field Order - a written order or directive issued by the City Contract Representative that orders minor changes in the Work.

Final Completion Date - the calendar date when the Work is one hundred percent (100%) complete as determined by the City.

Job-Order-Contracting – a project delivery method in which the contract is a requirements contract for indefinite quantities of construction and in which specified job orders are issued during the contract and may include finance services, maintenance services, operations services, preconstruction services and design services.

Liquidated Damages – a sum set forth in the Contract documents that will be deducted from any monies due to the Contractor, not as a penalty, but in lieu of actual damages for late completion of the work.

Maintenance Services - routine maintenance, repair and replacement of existing facilities, structures, buildings or real property.

Notice to Proceed - a written notice given by the City to the Contractor fixing the date on which the Completion time will commence and upon which the Contractor shall start to perform the Contractor's obligations under the Contract. In the case of a job order, it may also contain the specifications exclusive to the job order as well as consideration for the Contractor.

Public Inspector(s) - that person or persons provided by the public authorities having code jurisdiction and who perform day-to-day inspections of the Work for compliance with applicable codes.

Schedule of Values - a schedule submitted by the Contractor setting forth the values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the City Contract Representative may require. This schedule must be submitted before the Contractor submits its first application for progress payment and shall be used as a basis for reviewing and approving payments to the Contractor.

Shop Drawings - drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for the Contractor to illustrate, in detail, how some portion of the Work shall be fabricated and/or installed, and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a supplier and submitted by the Contractor to illustrate material or equipment for some portion of the Work.

Specifications - those portions of the Contract, or Notice to Proceed if a Job Order, consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Substantial Completion – a written declaration of the date upon which the City, in its sole discretion, determines the Work is substantially complete such that the City has beneficial use and/or occupancy. Upon substantial completion, the right of the City to assess liquidated damages for time after the date of substantial completion ceases, except as allowed for failure to meet final completion within thirty days of substantial completion.

Cottonwood Procurement Code – in addition to applicable State statutes and applicable Federal regulations and requirements, the municipal ordinance that governs the construction services contracting process as well as contract administration processes including the resolution of contract claims, disputes and controversies.

The Work - the entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract, or, in the case of a job-order contract, within individual Notices to Proceed. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract and/or Notice to Proceed, as appropriate.

2. THE CONTRACT ITS EXECUTION AND INTENT

2.1 The Contract

- 2.1.1 The documents in the Contract include any amendments, drawings, change orders and approved Contractor submittals.
- 2.1.2 The Contract comprises the entire agreement between the City and the Contractor concerning the Work and supersedes any prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by an instrument in writing and fully executed by the authorized parties to the Contract.

2.2 Intent of the Contract

- 2.2.1 The intent of the Contract is to include all labor, materials, equipment, transportation and all other costs and expenses necessary for the proper execution and completion of the Work by the Contractor.
- 2.2.2 The Contractor shall take no advantage of any apparent error or omission in the plans, estimated quantities or specifications. In the event the Contractor discovers such an error or omission after contract award, the Contractor shall immediately notify the City Contract Representative. The City Contract Representative shall then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the contract.
- 2.2.3 The Contract shall be construed in accordance with the laws of the State of Arizona, and all such laws regulating the construction of public works by the City are hereby incorporated herein by reference and made a part hereof.
- 2.2.4 Materials or work described in words, which have a well-known technical or trade meaning, shall be held to refer to such recognized standards.
- 2.2.5 The organization of the Contract into divisions, sections or articles is merely for the purpose of convenient reference, and neither the headings nor divisions shall have any legal or Contractual significance and shall not control the division of the Work by the Contractor among the various subcontractor or trades.
- 2.2.6 The Contractor shall include all applicable utility fees, permits, licenses, etc. in each estimate or proposal submitted.

2.3 Execution

2.3.1 Execution of the Contract by the Contractor is a representation that the Contractor has thoroughly examined the Contract.

2.4 Ownership of the Contract

2.4.1 The Contract, including, but not limited to, the drawings and specifications, is the property of the City and is not to be used by the Contractor or any subcontractor on other projects outside the scope of the Work without the express written consent of the City.

3. ADMINISTRATION OF THE CONTRACT

3.1 Lines of Authority and Communications

- 3.1.1 The City's Administrative Services General Manager is the City official with overall authority and responsibility for the award and administration of City Contracts. The Administrative Services General Manager or their designated Finance Department representative after consultation with the City Contract Representative has the ultimate authority to resolve disputes concerning Contract performance and to stop the Work whenever such stoppage may be necessary to ensure the proper execution of the Work.
- 3.1.2 The City Contract Representative is the designated representative of the particular City department for which the Work is being constructed (the "user department") or the City department which is responsible for the oversight of the work.
- 3.1.3 Day-to-day administration of the Contract is the responsibility of the City Contract Representative. The City Contract Representative is the City's representative during the prosecution of the Work and shall act as surveillance and technical advisor for the City. The City Contract Representative duties are more fully described in Section 3.2 of this Article.
- 3.1.4 The Contractor shall supervise and direct the Work and shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work, unless the Contract gives other specific instructions concerning these matters. The Contractor's duties and responsibilities are more fully described in Article 4 of these Contract conditions.
- 3.1.6 Except where the Contract otherwise provides or where direct communication has been specifically authorized, the Contractor shall initially communicate with the City Contract Representative.

3.2 City Contract Representative's General Authority and Responsibilities

3.2.1 Unless the Contractor is responsible for the design of the Work, the City Contract Representative shall furnish to the Contractor, free of charge unless it is provided otherwise in the Contract, up to three copies of drawings, specifications and instructions available for the execution of the Work. The City Contract Representative may furnish additional clarifications or interpretations in writing or by drawings as may be necessary for the proper progress and execution of the Work. Such additional clarifications and interpretations shall be furnished with reasonable promptness, and the Contractor shall not do work without drawings or written clarifications where needed. All drawings, specifications and copies thereof furnished by the City Contract Representative are City property. They are not to be used on other work and, with the exception of the signed Contract, and are to be returned to the City Contract Representative at the completion of the Work.

- 3.2.2 The City Contract Representative shall make general surveillance of the Work. By making sufficient periodic visits to the site of the Work, the City Contract Representative will become thoroughly familiar with the progress and quality of completed portions of the Work, and will assess if the Work is being performed in a manner indicating that the Work, when completed, will be in accordance with the Contract.
- 3.2.3 The City Contract Representative will decide all questions which may arise as to the quality and acceptability of materials furnished and Work performed and as to the rate of progress of the Work, and all questions which may arise as to the interpretation of the drawings and specifications.
- 3.2.4 The City Contract Representative shall have the authority to reject work that is not in conformity with the Contract and to order additional inspections and testing of the Work. The City Contract Representative's failure during the progress of work to discover or reject materials or work not in accordance with the plans, specifications or contract documents shall not be considered an acceptance of the work or materials or a waiver of defects. Neither the failure of the City Contract Representative to properly perform inspections, tests or approvals required by the contract documents nor the activities or duties of the City Contract Representative in the administration of this contract shall relieve the Contractor from the contractor's responsibility for the means, methods, techniques, sequences or scheduling of the construction or the obligation to perform the work in strict accordance with the contract documents.
- 3.2.5 The City Contract Representative shall conduct an initial review of, and approve or deny, written Change Orders submitted by the Contractor, and may prepare Change Orders and provide field clarifications and corrections. All Change Orders shall be approved by the Administrative Services General Manager or their designee prior to any work being done. However, in emergencies endangering life or property, the City Contract Representative may take action and issue orders which are deemed necessary to avert the loss of life or property.
- 3.2.6 The City Contract Representative, pursuant to Article 10 of these General Conditions, shall make recommendations to the Contract Officer as to all claims of the Contractor.
- 3.2.7 The City Contract Representative will review and process the Contractor's monthly Estimates for Payment, as more fully set forth in Article 7 of these General Conditions.
- 3.2.8 The City Contract Representative will conduct inspections to determine the dates of Substantial Completion and Final Completion and will certify such dates to the Contract Officer.
- 3.2.9 The City Contract Representative will not have control over or charge of, and will not be responsible for, construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility.

3.3 Public Inspections

- 3.3.1 Unless otherwise specifically provided in the Contract, Public Inspectors who perform day-to-day inspections of the Work for compliance with applicable codes will have authority to require compliance with drawings, specifications and applicable codes, and may provide clarification of any unspecified or unclear item or situation.
- 3.3.2 If the drawings or specifications, laws, ordinances, or any public authority requires any work to be specially tested or approved, the Contractor shall give the City Contract Representative timely notice of its readiness for inspection. If the inspection is by an individual, authority or entity other than the City Contract Representative or the Public Inspectors, the Contractor shall advise the City Contract Representative of the date fixed for such inspection.

3.3.3 All tests, inspections or approvals required to be performed by the City Contract Representative, Public Inspectors, or other authorities or entities shall not relieve the Contractor of their obligation to perform the Work in accordance with the Contract.

3.4 Special Inspections and Testing of Materials

- 3.4.1 All equipment and materials used in the construction of the Work, especially those upon which the strength and durability of the structure may depend, will be subject to adequate inspection and testing in accordance with accepted standards, to establish conformance with specifications and suitability for the use intended, as determined by the City Contract Representative.
- 3.4.2 The performance of tests and the engagement of testing laboratories or agencies must have the prior approval of the City Contract Representative. Except as provided in subsection 3.4.3, the City will pay for approved tests and services rendered by the approved laboratory or agency in addition to the Contract price for construction.
- 3.4.3 When initial tests indicate that any portion of the Work is not in conformance with the Contract because of faulty workmanship, the Contractor shall be required to pay for necessary re-tests. When initial tests indicate that the work is in conformance with the Contract, any re-testing that's ordered by the City shall be paid for by the City.

4. THE CONTRACTOR'S DUTIES AND RESPONSIBILITIES

4.1 Contractor's Review of Contract and Site Conditions

- 4.1.1 It shall be the duty of the Contractor to carefully study and compare all drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative.
- 4.1.2 The Contractor shall be required to use, for data and dimensions, figures marked on the drawings in preference to what the drawings may measure to scale; but in the absence of figured dimensions, scale dimensions may be used with the prior written concurrence of the City Contract Representative. The Contractor shall verify all dimensions shown and check all measurements in connection with any present building or buildings, level or grades, walks, driveways or other existing conditions before executing any work. Errors or inconsistencies shall be reported to the City Contract Representative immediately. It is the responsibility of the Contractor to provide BLUESTAKE verification of underground utilities on which may impact construction site.
- 4.1.3 Change orders will not be issued to cover any cost, loss or expense for additional labor or materials required to rectify any error or inconsistency in the drawings and specifications unless prior notification is given by the Contractor to the City Contract Representative.
- 4.1.4 The Contractor shall perform the Work in accordance with the Contract and with shop drawings, product data and samples that have been approved by the City Contract Representative.
- 4.1.5 Notwithstanding the above provisions, if the Contractor is responsible for the design of the Work, the Contractor shall ensure the accuracy and completeness of the drawings, specifications and instructions. If any discrepancies, errors, omissions or inconsistencies are discovered in the drawings or specifications, or between the drawings and specifications, or there are any conflicts between existing site conditions and the requirements of the drawings and specifications, the Contractor shall immediately call all such discrepancies to the attention of the City Contract Representative and shall be responsible for any required corrective action.

4.2 Contractor's Supervision

- 4.2.1 The Contractor shall efficiently and continuously supervise and direct the Work, using its best skill and attention. Unless the Contract specifically provides otherwise, the Contractor shall be solely responsible for and shall exercise control over construction means, methods, techniques and procedures and shall coordinate the sequences of all portions of the Work.
- 4.2.2 The Contractor shall ensure that the key personnel submitted in response to the Request for Qualifications and assigned to this Contract are available throughout the term of the Contract. In the event that the Contractor requests substitution of key personnel, the Contractor shall obtain prior approval from the City for key personnel substitution. The Contractor shall ensure that substituted personnel are equally qualified and capable. Information on the qualifications of proposed substitutes shall be provided to the City for its consideration and approval prior to substitution taking place.
- 4.2.3 The Contractor agrees that it is as fully responsible to the City for the acts and omissions of its subcontractors and of persons, either directly or indirectly employed by the Contractor, as it is for the acts and omissions of persons directly employed by the Contractor.

4.3 Materials and Labor; Warranty

4.3.1 Unless otherwise stipulated, the Contractor shall provide and pay for all materials, labor, equipment, tools, construction equipment and machinery, water, gas, heat, utilities, transportation, and other facilities and services necessary for the execution, completion and delivery of the Work within the specified Completion Time.

4.3.2 The Contractor shall pay all applicable taxes associated with the Work.

- 4.3.3 The Contractor warrants to the City that all materials and equipment furnished under the Contract will be new unless otherwise specified, and that all of the Work will be of good quality, free from faults and defects and in conformance with the Contract. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective.
- 4.3.4 The Contractor shall furnish all materials required to complete the work, except those specified to be furnished by the Agency. The Contractor shall receive, inventory, store, inspect, protect, distribute, and install Agency furnished material unless otherwise specified. The cost of handling and placing all materials after they are delivered to the Contractor shall be considered as included in the contract price for the item in connection with which they are used. The Contractor shall be held responsible for all material delivered to the contractor. Deductions shall be made from any monies due the Contractor to make good any shortages or deficiencies, from any cause whatsoever and for any damage which may occur after such delivery, and for any late delivery charges.
- 4.3.5 The Contractor will be held to furnish all work as specified in the Contract. After a price proposal for the Work has been accepted by the City, changes of brand named, trademarked, patented articles, or any other substitutions will be allowed only by written order signed by the City Contract Representative. Unless otherwise agreed to via Change Order, the City shall receive all benefits of the difference in costs.
- 4.3.6 Materials not conforming to the requirements of the specifications, whether in place or not, shall be rejected and shall be promptly removed from the site of the work, unless otherwise directed by the City Contract Representative. No rejected material, the defects of which have been corrected, shall be returned to the work site until such time as approval for its use has been given by the City Contract Representative.

4.4 Construction Schedules and Submittals

- 4.4.1 Before commencing the Work, the Contractor shall provide the City Contract Representative with a construction schedule for the Work, fixing the dates at which various predetermined events shall occur in order to promote a timely completion of the various parts of the Work in accordance with the Contract. The schedule may be revised from time to time as may be required by conditions of the Work, but shall not exceed time limits, or any extensions thereof, set forth in the Contract or in the individual job order, as appropriate.
- 4.4.2 The Contractor shall prepare and keep current for the City Contract Representative's approval, a schedule of submittals which shall be coordinated with the Contractor's construction schedule and allow the City Contract Representative reasonable time to review such submittals.
- 4.4.3 After review, the City Contract Representative, with reasonable promptness, shall approve these shop or setting drawings, product data, samples and sequences for conformance with the design concept of the project, the approved construction schedule, and other requirements of the Contract.
- 4.4.4 The Contractor shall make any corrections required by the City Contract Representative and resubmit such corrected materials to the City Contract Representative for approval. Any correction or change that will result in a design or function change or in an increase or decrease in the Contract price must also receive the prior approval of the City's Administrative Services General Manager or their designee.
- 4.4.5 The Contractor shall perform no portion of the Work requiring submittal and review of shop drawings, product data, samples or schedules until the respective submittals have been approved by the City Contract Representative, and shall not deviate from such submittals after final approval by the City Contract Representative.
- 4.4.6 As-builts documents must be provided to the City by the Contractor within thirty days of substantial completion. The City reserves the right to withhold final payment until complete asbuilts have been received in good order by the City Contract Representative.

4.5 Documents and Samples at the Work Site

4.5.1 Unless otherwise directed by the City's Contract Representative, the Contractor shall maintain at the Work site a complete file of the drawings, specifications, amendments, change orders and other approved modifications, in good order and marked to reflect changes and selections made during construction, together with all approved shop drawings, product data, samples and similar required submittals. Such files shall be made available to the City Contract Representative and Public Inspectors upon request.

4.6 Protection and Use of Site - (Signs, Utilities, Water, Sanitation, Traffic, etc.)

- 4.6.1 The City will provide land, rights-of-way and easements for all work specified in the Contract. The Contractor shall confine their apparatus, the storage of materials and the operations of its workmen to limits indicated by law, ordinances, permits or directions of the City Contract Representative, and shall not unreasonably encumber the premises with their material and equipment.
- 4.6.2 Contractor shall prevent any damage to pipes, sewers, computer and phone lines, conduits or other structures, including public and/or private lawns, gardens, shrubbery and trees encountered in the Work, and shall hold the City harmless from damages for any injury done to such pipes, structures or property during the course of the Work.

- 4.6.3 Work shall be accomplished so that there will be a minimum of traffic interruption and inconvenience, discomfort or damage to the public.
- 4.6.4 The Contractor shall supply safe drinking water for all Contractor employees at the Work site.
- 4.6.5 If archaeological, historical or paleontological features are encountered or discovered during any activity related to the Work, the Contractor shall stop work immediately at that location and shall take all reasonable steps to secure the preservation of those features. The City Contract Representative will make arrangements for the proper treatment of the affected portion of the Work site. The Contractor shall not resume work in the affected portion without the prior approval of the City Contract Representative. Extensions in the Completion time for delays resulting from the discovery of archaeological, historical or paleontological features, if such discovery results in a delay to the progress of the Work, may be claimed by the Contractor in accordance with Article 10 of these General Conditions.

4.7 Cleaning Up

- 4.7.1 The Contractor shall at all time keep the construction site and surrounding area free from accumulations of waste material or rubbish caused by operations under the Contract. Upon completion of the Work, the Contractor shall remove all rubbish, tools, equipment, scaffolding and surplus materials from the site and surrounding areas and leave the area "broom clean" or its equivalent, unless otherwise instructed by the City Contract Representative.
- 4.7.2 If the Contractor fails to clean up as provided in the Contract, the City may do so and the cost thereof shall be charged against the Contractor.

4.8 Emergencies

- **4.8.1** In an emergency affecting the safety of life or property, the Contractor, without special instruction or authorization from the City Contract Representative, is hereby permitted, authorized and directed to act at its own discretion to prevent threatened loss or injury.
- 4.8.4 Except in the case of an emergency requiring immediate remedial work, any work performed after regular working hours, on Saturdays, Sundays or legal holidays shall be performed without additional expense to the City unless such work has been specifically requested and approved by the City Contract Representative.
- 4.8.5 The Contractor shall file with the City Contract Representative the names, addresses and telephone numbers of their employees who can be contacted at any time in case of emergency. These Contractor representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by the City or the Public Inspectors.

4.9 Permits, Fees and Notices

- 4.9.1 The Contractor shall, at their expense, obtain all necessary permits and licenses for work performed under the Contract, and shall give all necessary notices required by laws, ordinances, rules, regulations and lawful orders of public authorities pertaining to performance of the Work, public health and safety.
- 4.9.2 If the Contractor knowingly performs work which is not in compliance with such laws, ordinances, rules, regulations or orders, without such notice to the City Contract Representative, the Contractor shall assume full responsibility for such Work and shall bear all costs attributable thereto.

4.10 Royalties and Patents

- 4.10.1 The Contractor shall pay all royalties and license fees.
- 4.10.2 The Contractor and the surety shall defend any suit or proceeding brought against the procuring agency, during the prosecution or after the completion of the work, based on a claim that manufacture, sale, or use of any method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, furnished or used under this Contract constitutes an infringement of any patent, trademark, or copyright, and the Contractor shall pay all damages and costs awarded therein, against the procuring agency and any affected third party or political subdivision. If manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or any part thereof, is in such suit held to constitute infringement and if manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, is enjoined, the Contractor shall, at its own expense, either procure for the procuring agency the right to continue manufacture, sale, or use of said method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part thereof, or, subject to Engineer's approval, replace same with noninfringing method, process, machine, technique, design, living thing, genetic material, or composition of matter, or part, or modify it so it becomes noninfringing.
- 4.10.3 If appropriate, the Contractor shall furnish the City Contract Representative satisfactory evidence of patent licenses or patent releases covering City-specified proprietary materials, equipment, devices or processes, as the case may be.

4.11 Protection of Persons and Property

- **4.11.1** The Contractor shall be responsible for initiating, maintaining, supervising and directing all safety precautions and programs in connection with the performance of the Contract.
- 4.11.2 The Contractor shall be responsible for the protection of all Work until completion and final payment is made, including any material or equipment to be incorporated whether in storage on or off the Work site.
- 4.11.3 The Contractor shall, at their own expense, replace damaged or lost material, or repair damaged parts of the Work or of other property at the work site or adjacent thereto, and the Contractor and their sureties shall be liable therefore.
- 4.11.4 The Contractor shall assume all risks from floods and casualties and shall make no claim for damages for delay from such causes. However, a reasonable extension of time on account of such delays may be allowed, subject to the conditions contained in Article 6 of these General Conditions.
- 4.11.5 In the event the Contractor encounters on the work site material reasonably believed to be a hazardous material, such as asbestos or polychlorinated biphenyl (PCB), the Contractor shall immediately stop work in the area affected and report the condition to the City Contract Representative.
- 4.11.6 The Contractor shall take all necessary precautions for the safety of employees on the work site and other persons who may be affected thereby, and shall comply with all applicable provisions of Federal, State and Municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed. The Contractor shall erect and properly maintain at all times, as required by the condition and progress of the Work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by such features of construction as

protruding nails, hod hoists, well holes, elevator hatchways, scaffolding, window openings, stairways and falling materials.

4.11.7 The Contractor warrants it is fully familiar and shall comply with all of the safety requirements of the Occupational Safety and Health Act (29 U.S.C. Sections 641-678, or as amended or recodified from time to time). Also the Hazard Communication Act relating to the use of hazardous materials (29 C.F.R. 1910-1200, or as amended or recodified from time to time), as promulgated by the Federal Government and as implemented by the State of Arizona, and that it will be solely responsible for all fines and penalties provided for by law for any violation of such Act and, furthermore, shall require all subcontractors to comply with such Acts and with the provisions of this section. Any claims arising out of alleged violations of such Acts are covered by the indemnification set forth in Section 4.12.

4.12 Indemnification and Insurance

4.12.1 To the fullest extent permitted by law, Contractor, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless City of Cottonwood, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Contractor relating to work or services in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Contractor's and Subcontractor's employees, provided, however, that this duty to indemnify, hold harmless and defend shall not include losses, damages, claims, liabilities, costs and expenses to the extent arising from the acts or omissions of the City.

4.12.2 The Contractor Agrees to:

- .1 Obtain insurance coverage of the types and amounts required in this subsection and keep such insurance coverage in force throughout the life of the Contract. The Contractor will provide satisfactory certificates of the required coverage to the Contracting Officer before beginning the Work. All policies will contain an endorsement providing that written notice be given to the City at least ten (10) calendar days prior to termination, cancellation or reduction in coverage in any policy.
- .2 Include the City as an additional insured on the General Liability Insurance and Automobile Liability Insurance policies with respect to liability arising out of the performance of the Work. Policies shall contain a waiver of subrogation against the City. The Contractor agrees that the insurance required hereunder will be primary and that any insurance carried by the City will be excess and not contributing.
- .3 Provide and maintain minimum insurance coverage as follows:

Coverage Afforded	Limits of Liability	
Worker's Compensation	Statutory	/
Commercial General Liability	\$1,000,0	000
Products & Completed Opera	tions \$1,000,0	
Blanket Contractual	\$1,000,00	
Explosion, Collapse & Under	ground Hazard \$1,000,00	
Premises-Operations	\$1,000.00	
Personal and Advertising Inju	ry \$1,000,00	

\$1,000,000

Automobile Liability

Insurance Including:

- 1. Non-Owned
- 2. Leased
- 3. Hired Vehicles

Builder's Risk Insurance

Contract Value (Less Site Preparation)

Including: Fire, Extended Coverage, Vandalism and Malicious Mischief, and Theft.

Builder's Risk insurance shall be required on all vertical construction.

The City reserves the right, at its sole option, to furnish the Builder's Risk Insurance at the City's expense in the event that the City exercises such right, Contractor shall reduce General Conditions and overhead accordingly.

.4 In the event any of the Work is subcontracted, the Contractor shall require the subcontractor to provide Workers' Compensation insurance for all of the subcontractor's employees engaged in the Work, unless such employees are covered by the protection afforded by the Contractor's Workers' Compensation insurance. In case any class of employees engaged in hazardous work under the Contract is not protected under the Workers' Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate employer's general liability insurance for the protection of such of their employees as are not otherwise protected.

5. SUBCONTRACTS AND SEPARATE CONTRACTS

5.1 Subcontracts

- 5.1.1 The Contractor shall ensure that the assigned to this Contract are available throughout the term of the Contract. In the event that the Contractor requests substitution of subcontractors, the Contractor shall obtain prior approval from the City for subcontractor substitution. The Contractor shall ensure that substituted subcontractors are equally qualified and capable. Information on the qualifications of proposed substitutes shall be provided to the City for its consideration and approval prior to substitution taking place.
- 5.1.2 In job-order-contracting, by appropriate written agreement, the Contractor agrees that each subcontractor has been notified in writing of the negotiated amount or coefficient agreed to for billing purposes. Furthermore, by appropriate written agreement, the Contractor agrees that each subcontractor shall be bound to the Contractor by the terms of this Contract. In the event of a conflict between the substance of a written subcontract and the language of this Contract, the language of this Contract shall prevail.
- 5.1.3 Contractor shall ensure that each subcontract shall preserve and protect the rights of the City under the Contract with respect to the work to be performed by the subcontractor. Where appropriate, the Contractor shall require each subcontractor to enter into similar agreements with sub-subcontractors. In this connection, the Contractor shall make available to each subcontractor, prior to execution of any subcontract, copies of the Contract provisions to which the subcontractor will be bound. Subcontractors shall also make copies of applicable portions of the Contract available to their respective subcontractors.
- 5.1.4 Each subcontract will require the subcontractor to submit to the Contractor applications for payment in such reasonable time as to enable the Contractor to apply for payment to the City in a timely manner, including any claims for extras, extensions of time, and damages for delays or otherwise to the Contractor in the manner provided in the Contract for like claims by the Contractor upon the City.
- 5.1.5 The Contractor further agrees:

- .1 To be bound to the subcontractor by all the obligations that the City assumes to the Contractor under this Contract, and by all provisions thereof affording remedies and redress to the Contractor from the City.
- .2 To promptly pay the subcontractor in accordance with applicable State statute.
- .3 That, at all times, the subcontractors' total payments shall be proportionate to the value of the labor and materials provided by them. Payment may be preconditioned upon the subcontractors providing the Contractor with requested significant partial or final lien waivers.
- .4 To pay the subcontractor to such extent as may be provided by the Contract or the subcontract, if either of these provides for earlier or larger payments than the above.
- .5 To ensure timely payment to subcontractors for their work as performed and for materials fixed in place, less any applicable retention, despite any delay by the City in making payments to the Contractor for any cause not the fault of the subcontractor.
- .6 To share or forward, as appropriate, with its subcontractors or, as appropriate, with the City, any fire insurance money received by the Contractor under the insurance provisions of the Contract.
- .7 That no claim for services rendered or materials furnished by the Contractor to the subcontractor shall be valid unless written notice thereof is given by the Contractor to the subcontractor during the first ten (10) days of the calendar month following that in which the claim originated.
- .8 To give the subcontractor an opportunity to be present and to submit evidence in any Contractual claim, controversy or dispute.
- 5.1.7 Nothing in this Article shall create any obligation on the part of the City to pay to, or to see to the payment of, any sums to any subcontractor, except as may otherwise be required by law.
- 5.1.8 Each subcontract agreement for a portion of the Work is hereby assignable by the Contractor to the City provided that:
 - .1 Assignment is effective at the sole option of the City and only upon termination of the Contract for cause pursuant to Article 9 of these General Conditions, and only for those subcontract agreements which the City determines to accept by notifying the subcontractor in writing, and
 - .2 Assignment is subject to the prior rights of the surety obligated under the Bonds relating to the Contract.

5.2 Separate Contracts

- 5.2.1 The City reserves the right to perform construction or operations related to the Work with the City's own forces and to let separate Contracts in connection with other portions of the Work or other construction or operations on the Work site.
- 5.2.2 The Contractor shall afford other Contractors on the Work site reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate its work with theirs.

- 5.2.3 The City Contract Representative shall coordinate the activities of the City's own forces and of each separate Contractor with the work of the Contractor. The Contractor and all other Contractors on the Work site shall be required to review their construction schedules and cooperate with the City Contract Representative in coordinating the various portions of the Work with the schedules of such separate contractors.
- 5.2.4 If any part of the Contractor's work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the City Contract Representative any defects in such work that render it unsuitable for continuance of the Contractor's Work. Failure to inspect and report may constitute an acceptance of the other contractor's work as fit and proper for the reception of the Contractor's Work, except as to defects not then reasonably discoverable.
- 5.2.5 Costs caused by the Contractor because of delays or by improperly timed activities or defective construction shall be borne solely by the Contractor.
- 5.2.6 If the Contractor causes damage to any separate contractor on the site, the Contractor, upon due notice, agrees to settle with such separate contractor by agreement or arbitration, if he will so settle. If such separate contractor sues the City on account of any damage alleged to have been so sustained, the City shall notify the Contractor, who shall defend such proceedings and, if any judgment against the City arises therefrom, the Contractor shall pay or satisfy it.
- 5.2.7 Should separate contractors on the Work cause any damage, cost or loss to the Contractor, the City shall not be held responsible or liable therefore in any way other than extensions of completion time in accordance with Article 6 of these General Conditions.

6. TIME FACTORS; LIQUIDATED DAMAGES

6.1 Time

- 6.1.1 Unless otherwise provided in the Notice to Proceed, the Completion Time is the number of calendar days, including authorized time extensions, specified for completion of the Work.
- 6.1.2 Completion Time shall commence on the day specified in the Notice to Proceed. The date shall not be postponed on account of the failure of the Contractor, or of any of its subcontractors to take any action required to commence the Work.
- **6.1.3** The date of Substantial Completion is the date certified by the City Contract Representative pursuant to Subsection 7.4.1 of Article 7 of these General Conditions. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.
- 6.1.4 The term "day" as used in the Contract shall mean calendar day.
- 6.1.5 By execution of the Contract documents, or by concurrence with the Notice to Proceed in the case of a job order, the Contractor acknowledges that the time described is a reasonable period for a competent Contractor to complete the Work.
- 6.1.6 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the agreed upon time frame. If the Contractor is delayed on any portion of the Work for any reason whatsoever, it shall expeditiously proceed on other portions of the Work which are not affected by such delay.

6.2 Liquidated Damages

- 6.2.1 The amount of liquidated damages, if applicable, shall be as specified in the Contract documents, or, in the case of a job-order, in the Notice to Proceed.
- 6.2.2 The Contractor has been put on notice that the City shall enforce the liquidated damages set forth in the Contract documents or Notice to Proceed.
- 6.2.3 The Contractor agrees that the City will incur damages if the Contractor fails to complete the Work within the Completion time or any approved extensions thereof and that the liquidated damages specified in the Contract or, in the case of a job-order, in the Notice to Proceed, represents a fair and equitable approximation of the City's damages.

Each calendar day that the Contractor shall fail to achieve Substantial Completion after the calendar date agreed to for the completion of the Work provided for in the Contract, the sum set forth in the Contract documents will be deducted from any monies due the Contractor, not as penalty, but as liquidated damages; provided however, that due account will be taken of any adjustments of the Completion time for the completion of the work allowed under the Contract.

Permission allowing the Contractor to continue and finish any part of the Work after the time fixed for its completion or after the date to which the time for completion may have been extended shall in no way operate as a waiver on the part of the City of any of its rights under the Contract.

Once substantial completion is granted, the Contractor shall achieve final completion within thirty (30) calendar days, unless otherwise agreed upon. If final completion does not occur within the agreed upon number of days, liquidated damages will commence on the first day after the agreed days, until final completion occurs.

6.3 Delays and Time Extensions

6.3.1 It is agreed that the City's only liability for any delay from any cause shall be limited to granting a time extension to the Contractor and that no extended general conditions for any delay will be applicable unless agreed to by the City. There is no other obligation, express or implied, on the part of the City to the Contractor for delay from any cause.

6.3.2 Force Majeure

- .1 Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means a major occurrence that is beyond the control of the parties affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a sub-contractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition.
- .2 If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall immediately notify the other party in writing of such delay of the commencement thereof, and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time of completion shall be extended by contract modification for a period of time equal to the time that results or effects of such delay prevent the delayed party from performing in accordance with this Contract.

- 6.3.3 The completion time shall be extended when delay in completion of the Work by either the Contractor or the subcontractors is due to any preference, priority or allocation order duly issued by the Federal Government.
- **6.3.4** Time extensions shall only be granted for delays caused by the City, changes authorized in accordance with Article 8 of this agreement, or delays pursuant to sections 6.3.2 and 6.3.3.
- 6.3.5 Should a dispute arise between the Contractor and the City regarding a delay or time extension, the Contractor shall continue progress on the Work until the dispute is resolved.

7. PAYMENTS TO THE CONTRACTOR

7.1 Contract Price; Request for Payment; Schedule of Values

- 7.1.1 The Contract amount or coefficient stated in the Contract documents or, in the case of a job order, in the Notice to Proceed, plus or minus any authorized adjustments, is the amount payable by the City to the Contractor for performance of the Work under the Contract or for a specific job order.
- 7.1.2 During the course of construction, the Contractor shall request payment for work actually performed during the preceding month or some other time period as mutually agreed to, using "ESTIMATE FOR PAYMENT" forms, which are furnished by the City or a City Contract Representative. A schedule of values and an updated project schedule shall accompany the request for payment.

7.2 Certification and Payment

- 7.2.1 The City by mutual agreement may make progress payments on Contracts of less than ninety days and shall make monthly progress payments on all other Contracts as provided for in this paragraph. Payment to the Contractor on the basis of a duly certified and approved estimate for payment of the work performed during the preceding calendar month under the Contract may include payment for material and equipment. An estimate of the work submitted shall be deemed approved and certified for payment after seven days from the date of submission unless before that time the City or the City's designee prepares and issues a specific written finding setting forth those items in detail in the estimate of the work that are not approved for payment under the Contract. The City may withhold an amount from the progress payment sufficient to pay the expenses the City reasonably expects to incur in correcting the deficiency set forth in the written finding. The progress payments shall be paid on or before Thirty days after the estimate of the work is certified and approved. The estimate of the work shall be deemed received by the City on submission to any person designated by the City for the submission, review or approval of the estimate of the work.
- 7.2.2 On completion and acceptance of each separate building, public work or other division of the Contract on which the price is stated separately in the Contract, except as qualified in paragraph 7.2.5, payment may be made in full, less authorized deductions. In preparing estimates, the material and equipment delivered on the site to be incorporated in the job shall be taken into consideration in determining the estimated value by the architect, engineer or other person, as specified in the Contract.
- 7.2.3 The Contractor shall pay to the Contractor's subcontractors or material suppliers and each subcontractor shall pay to the subcontractor's subcontractor or material supplier, within seven days of receipt of each progress payment, unless otherwise agreed in writing by the parties, the respective amounts allowed the Contractor or subcontractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest, except that no Contract for construction services may materially alter the rights of any Contractor, subcontractor or material supplier to receive prompt and timely payment as provided under this section. The payments to subcontractors or material suppliers shall be based on payments received pursuant to this section.

Any diversion by the Contractor or subcontractor of payments received for work performed on a Contract, or failure to reasonably account for the application or use of those payments, constitutes grounds for disciplinary action by the Registrar of Contractors. The subcontractor or material supplier shall notify the Registrar of Contractors and the City in writing of any payment less than the amount or percentage approved for the class or item of work as set forth in this section.

- 7.2.4 A subcontractor may notify the City in writing requesting that the subcontractor be notified by the City in writing within five days from payment of each progress payment made to the Contractor. The subcontractor's request remains in effect for the duration of the subcontractor's work on the project.
- 7.2.5. Nothing in this section prevents the Contractor or subcontractor, at the time of application and certification to the City or Contractor, from withholding the application and certification to the City or Contractor for payment to the subcontractor or material supplier for unsatisfactory job progress, defective construction work or materials not remedied, disputed work or materials, third party claims filed or reasonable evidence that a claim will be filed, failure of a subcontractor to make timely payments for labor, equipment and materials, damage to the Contractor or another subcontractor, reasonable evidence that the subcontract cannot be completed for the unpaid balance of the subcontract sum or a reasonable amount for retention.
- 7.2.6 If any payment to a Contractor is delayed after the date due interest shall be paid at the rate of one per cent per month or fraction of a month on the unpaid balance as may be due.
- 7.2.7 If any periodic or final payment to a subcontractor is delayed by more than seven (7) days after receipt of the periodic or final payment by the Contractor or subcontractor, the Contractor or subcontractor shall pay the subcontractor or material supplier interest, beginning on the eighth day, at the rate of one per cent per month or fraction of a month on the unpaid balance as may be due.
- 7.2.8 Notwithstanding anything to the contrary in this section, this section applies only to amounts payable in a construction services Contract for construction and does not apply to amounts payable in a construction services Contract for design services, preconstruction services, finance services, maintenance services, operations services and other related services.
- 7.2.9 The City Contract Representative, with reasonable dispatch, will review the contents of the ESTIMATE FOR PAYMENT submitted by the Contractor, determine the sufficiency of the estimate, satisfy himself that the City has received full value, certify the estimate and submit it through normal channels for payment.
- 7.2.10 Neither the certification nor payment made to the Contractor, nor partial or entire use or occupancy of the Work by the City shall constitute an acceptance of any portion of the Work.

7.3 Payment Withheld

- 7.3.1 If the City Contract Representative is unable to certify a request for payment in whole or in part because, after observing the Work and the data comprising the ESTIMATE FOR PAYMENT, the City Contract Representative determines that the Work has not progressed or the quality of the Work is not in accordance with the Contract, the City Contract Representative shall promptly notify the Contractor. If the City Contract Representative and the Contractor cannot agree on a revised amount, the City Contract Representative will promptly issue a certificate for payment in an amount they determine is justified.
- 7.3.2 The City Contract Representative or other City official, as a result of subsequently discovered evidence, may also withhold or nullify the whole or a part of any certification to such extent as may be necessary to protect the City from loss on account of:

- .1 Defective work not remedied.
- .2 Third party claims filed or reasonable evidence indicating probable filing of such claims.
- 3 Failure of the Contractor to make payments properly to subcontractors or for labor, materials, or equipment.
- .4 Reasonable doubt that the Work can be completed for the unpaid balance of the Contract amount, or reasonable evidence that the Work will not be completed within the Completion time and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay.
- .5 Damage to another contractor or to the City.
- .6 Damage to the real or personal property of another and failure to repair or replace the same.
- .7 Persistent failure to carry out the Work in accordance with the Contract.
- 7.3.3 When the grounds for withholding payment have been corrected to the satisfaction of the City Contract Representative or other City official concerned, the City shall proceed to process any amounts due.

7.4 Substantial Completion

- 7.4.1 When the Contractor considers that the Work, or a portion thereof which the City has agreed to accept separately, is ready for its intended use, it shall notify the City Contract Representative in writing that the Work, or the agreed upon portion thereof, is substantially complete and request the City Contract Representative to issue a Certificate of Substantial Completion. reasonable time thereafter, the City Contract Representative will make an inspection of the Work, or the designated portion thereof, to determine the status of completion. If the inspection discloses any item that is not in accordance with the Contract, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item. The Contractor shall then submit a request for a re-inspection by the City Contract Representative. When the Work or designated portion thereof is determined to be substantially complete, the City Contract Representative will prepare a Certificate of Substantial Completion for signature of the parties, fixing therein the date of Substantial Completion and establishing the responsibilities of the City and Contractor, pending final payment by the City, for security, maintenance, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall finish all items on the punch list attached to the certificate.
- 7.4.2 Warranties required by the Contract shall commence on the date of Final Completion for a period of two years, except where a specific provision of the Contract provides otherwise.

7.5 Final Completion and Final Payment

7.5.1 Upon receipt of notice from the Contractor that the Work is ready for final inspection and upon receipt of a request for final payment, the City Contract Representative will determine that all items on the punch list have been completed or corrected and the City will make payment for such work or portion thereof as provided for in the Contract.

7.6 Consent of Surety/ Lien Waivers and As-Built Drawings

7.6.1 Final payment shall become due when the Contractor provides to the Contract Officer a Consent of Surety Certificate from their bonding company, or lien waivers, at the Contract Officer's discretion and all completed as-built drawings.

7.7 Partial Utilization

- 7.7.1 The City may occupy or use any portion of the Work which the City and the Contractor agree constitutes a separately functioning and usable part of the Work that can be used by the City without significant interference with the Contractor's performance of the remainder of the Work. Such use or occupancy may commence whether or not the portion is substantially complete, provided the City and the Contractor have accepted in writing their mutual responsibilities regarding the used portion, including but not limited to insurance coverage, maintenance and utilities.
- 7.7.2 Partial use or occupancy of the Work by the City shall not constitute acceptance of Work not complying with the requirements of the Contract.

8. UNCOVERING AND CORRECTION OF WORK; CHANGES IN THE WORK

8.1 Uncovering of Work

- **8.1.1** Piping, wiring, ducts, etc., shall not be covered up before proper inspection, approval and certificates, if required, are issued. Should any work that is designated for inspection by the City Contract Representative or the Contract before covering is covered before such inspection, it must be uncovered by the Contractor at their expense when examination is ordered by the City Contract Representative.
- 8.1.2 If a portion of the Work not designated by the City Contract Representative or the Contract for inspection has been covered and the City Contract Representative or a Public Inspector orders such work uncovered for inspection, the Contractor shall immediately uncover such work. If such uncovered work is found to be in accordance with the Contract, an appropriate Change Order shall be issued to compensate the Contractor for the expense of uncovering and replacing the work. If such work is found to be not in compliance with the Contract, the Contractor shall pay such costs, unless the condition was caused by the City or a separate Contractor.
- **8.1.3** The City shall not be responsible for or bear the cost of any re-examination and replacement occasioned by defects in the work caused by subcontractors.

8.2 Correction of Work

- 8.2.1 Correction of Work Before Final Payment: The Contractor shall promptly remove from the site of the Work all materials and/or associated portions of the Work rejected by the City Contract Representative as failing to conform to the Contract, whether incorporated or not, and the Contractor shall promptly replace and re-execute the Work in accordance with the Contract, without expense to the City, and shall bear the expense of making good the work of other contractors destroyed or damaged by such removal or replacement. If the Contractor does not remove such rejected Work and/or materials within a reasonable time, fixed by written notice, the City may remove it and may store the materials at the expense of the Contractor.
- 8.2.2 Should the Contractor fail to repair such defective material and/or workmanship or to make replacements within five (5) calendar days after written notice by the City, it is agreed that the City may, at its sole discretion, make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by the Contractor or his surety.

8.3 Changes in the Work

8.3.1 The City Contract Representative may order extra work or make changes by altering, adding to or deducting from the Work, the Contract price being adjusted accordingly by Change Order without invalidating the Contract. All such work shall be executed under the conditions of the original

Contract except that any claim for extension of time caused thereby shall be adjusted at the time of ordering such change.

- 8.3.2 If, instead of requiring corrections or removal of work not conforming to the requirements of the contract, the work is determined to be acceptable with diminished value in the sole judgment of the City Contract Representative, a change order shall be issued incorporating the necessary revisions in the contract, including an appropriate reduction in the contract price. Such a change order does not require the signature or approval of the Contractor. Such acceptance of non-conforming work shall not constitute a waiver of any other work required under this contract.
- **8.3.3** The value of any extra work or change ordered under the Contract shall be determined in one or more of the following ways:
 - .1 By estimate and acceptance in a lump sum.
 - .2 By unit prices in the Contract or subsequently agreed upon prices.
 - .3 By a fixed fee.

9. SUSPENSION OR TERMINATION OF THE WORK

9.1 Suspension of the Work for Cause; City's Right to Perform the Work

- 9.1.1 If the Contractor fails to correct Work which is not in accordance with the Contract, or persistently fails to carry out the Work in accordance with the Contract, the Contract Officer, after consultation with the City Contract Representative, may order the Contractor in writing to stop the Work, or any portion of the Work, until the cause for such order has been eliminated.
- 9.1.2 If the Contractor fails to prosecute the Work properly or fails to perform any provision of this Contract, the City may, five (5) days after written notice to the Contractor, and without prejudice to any other remedy the City may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor and its surety shall be liable to the City for such deficiency.

9.2 Termination by the City for Cause

- 9.2.1 The City, upon certification by the City Contract Representative, without prejudice to any other right or remedy of the City and after giving the Contractor seven (7) days written notice, may terminate this Contract as to all or any part of the Work for any of the following reasons:
 - .1 If the Contractor abandons the Work, or unnecessarily delays the Work.
 - .2 If the Contractor should persistently or repeatedly refuse or fail to supply enough properly skilled workers or proper materials or competent subcontractor.
 - .3 If the Contractor fails to make payment to subcontractor for materials or labor in accordance with the respective agreements between the Contractor and the subcontractor or as expressly set forth herein.
 - .4 If the Contractor persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction, or persistently violates the conditions or covenants of this Contract.
 - .5 If the Contractor should be adjudged bankrupt.

- .6 If the Contractor should make a general assignment for the benefit of its creditors or if a receiver should be appointed on account of its insolvency.
- .7 If the Contractor is otherwise in substantial breach of a provision of the Contract as determined by the City.
- 9.2.2 Upon termination of the Contract for any of the above reasons, the City, subject to any prior rights of the surety, may:
 - .1 Take possession of the Work and of all materials, equipment, tools, and construction equipment and machinery at the Work site or adjacent thereto belonging to the Contractor.
 - .2 Accept assignment of subcontracts pursuant to Subsection 5.1.8 of Article 5 of these General Conditions.
 - .3 Finish the Work by whatever reasonable method the City may deem expedient. In completing the Work by a new contractor or by doing the Work itself, the City may use such equipment, materials, supplies, machinery, implements, tools and plant of the Contractor in the City's possession and may make all necessary repairs and replacements thereto.
- **9.2.3** If the City terminates the Contract for one of the reasons stated in Subsection 9.2.1, the Contractor shall not be entitled to receive any further payment.
- 9.2.4 The cost of fully completing the Work provided for under any new contract shall include the sum or sums of money to be paid by the City to other Contractors, all costs of repairs and replacements of machinery, implements, tools and plant of the Contractor hereunder, and also all sums of money paid for additional management and administrative services, including but not limited to the cost of the City Contract Representative's additional services and added expenses made necessary by the termination of the Contract.
- 9.2.5 If the unpaid balance of the Contract price exceeds costs of finishing the Work, such excess may, at the City's discretion, be paid to the Contractor. If such costs exceed the unpaid balance, the City may sell all materials, supplies, machinery, implements, tools and plant of the Contractor's then on hand, at public sale, on giving the Contractor twenty (20) days notice of the time and place of such sale, and the net proceeds derived from the sale of said property shall be applied against such costs. Should the amount received from the sale be insufficient to pay such deficiency, the Contractor and its surety shall be liable to pay the amount of the deficiency.

9.3 Suspension by the City for Convenience

- 9.3.1 The City may, without cause, order the Contractor in writing to suspend or interrupt the Work in whole or in part for such period of time as the City may determine whenever such suspension or interruption would be in the best interest of the City.
- 9.3.2 If the City suspends the Work for convenience, an adjustment shall be made for substantiated increases in the cost of performance of the Contract, if any, including profit on the increased cost of performance, caused by suspension or interruption. No adjustment shall be made to the extent:
 - .1 That performance is, was or would have been so suspended or interrupted by another cause for which the Contractor is responsible, or
 - .2 That an equitable adjustment is made or denied by the City.

9.4 Termination by the City for Convenience

- 9.4.1 The performance of the Work under this Contract may be terminated by the City, in whole or in part, in accordance with this clause whenever the City reasonably determines that such termination is in the best interest of the City. Any such termination shall be effected by delivery to the Contractor of a written Notice of Termination specifying the extent to which performance of the Work is terminated, and the date upon which such termination becomes effective.
- 9.4.2 If the Contract is terminated by the City as provided herein, the Contractor shall receive compensation for any Work performed and accepted, together with profit in proportion to the Work performed and accepted. The compensation shall include payment for contractual obligations reasonably incurred prior to termination. No amount shall be allowed for anticipated profit on unperformed Work.
- 9.4.3 In the event the City terminates the Work, in whole or in part, for cause pursuant to Section 9.2 of this Article 9 and the termination is later deemed to be unjustified, then such termination shall be automatically deemed a termination for convenience and the provisions of this Section 9.4 shall apply.
- 9.4.4 Termination of the Contract or portion thereof by the City for convenience shall not relieve the Contractor of their contractual responsibilities for the Work completed, nor shall it relieve the surety of its obligation for and concerning any just claim arising out of the Work completed.

9.5 Contractor's Right to Terminate Contract

- 9.5.1 The Contractor may terminate the Contract for any of the following reasons:
 - .1 If the Work should be stopped under an order of any court of competent jurisdiction or other public authority for a period in excess of one (1) month through no act or fault of the Contractor or of anyone directly or indirectly employed by him.
 - .2 If the City has failed to pay the Contractor within sixty (60) days after the date when any sum is certified for payment by the City Contract Representative, or
 - .3 If repeated suspensions or interruptions ordered by the City pursuant to Section 9.3 total in the aggregate more than one hundred percent (100%) of the total number of days scheduled for completion, or one hundred twenty (120) days in any three hundred sixty-five (365) day period, whichever is less.
- 9.5.2 If one of the above reasons exists, the Contractor may, upon seven (7) additional days, written notice to the City Contract Representative, stop Work and terminate the Contract and recover payment from the City for all Work executed and accepted by the City and any loss sustained upon any plant or materials and reasonable profit and damages.

10. CLAIMS AND DISPUTES

10.1 City Contract Representative's Resolution of Claims and Disputes; Review by Contract Officer

- 10.1.1 This Article relates to claims for additional compensation and any other differences between the parties arising under and by virtue of the Contract. Such claims are to be resolved at the earliest possible time and at the first responsible level so as to increase the possibility that such matters will be resolved without the vexation of an administrative hearing process, arbitration or litigation.
- 10.1.2 All claims, including but not limited to, claims relating to adjustments or interpretations of the Contract, payments of money, or other relief with respect to the terms of the Contract, shall be

- referred initially in writing to the City Contract Representative for action. The responsibility to substantiate claims shall rest with the party making the claim.
- 10.1.3 Claims by either party must be made within twenty-one (21) days after the event giving rise to the claim or within twenty-one (21) days after the claimant first becomes aware of the condition giving rise to the claim, whichever is later.
- 10.1.4 Pending final resolution of a claim, the Contractor shall proceed diligently with performance of the Contract and the City shall continue to make payments in accordance with the Contract.
- 10.1.5 The City Contract Representative shall, within twenty-one (21) days of receipt of a claim, issue one of the following:
 - .1 Issue a decision either rejecting or approving the claim.
 - .2 Suggest an equitable compromise of the claim.
 - .3 Provide a schedule to the Contractor indicating when they expect to be able to take action, which shall be within a reasonable time.
- 10.1.6 The City Contract Representative may require the submission of additional documentation from the Contractor to facilitate a decision.
- 10.1.7 The Contractor shall have ten (10) days from the date of the City Contract Representative's final decision rejecting or approving a claim, or suggesting a compromise, within which to accept or object to the decision. Failure of the Contractor to accept or object to the decision in writing within such ten (10) day period shall be deemed an acceptance of the decision. If the Contractor rejects the decision of the City Contract Representative in writing within such ten (10) day period, the matter shall be referred to the Contract Officer for de novo review.
- 10.1.8 The Contract Officer shall have sixty (60) days from receipt of a written objection by the Contractor to the City Contract Representative's final decision, or such longer period as the parties may stipulate in writing, to review the matter and issue a response. During such period, the Contract Officer may require such additional documentation or testimony as deemed necessary to support his/her response.

11. MISCELLANEOUS PROVISIONS

11.1 Governing Law

11.1.1 The Contract shall be governed and construed according to the laws of the Cottonwood City Code and the State of Arizona.

11.2 Written Notice

11.2.1 Written notice shall be deemed to have been duly served if delivered in person to the individual or a member of the firm or entity or to an officer of the corporation for which it was intended, or if delivered at or sent by registered or certified mail to the last known business address known to the party giving notice.

11.3 Conflict of Interest

11.3.1 The City shall also have the right to terminate this Contract pursuant to the conflict-of- interest provisions of A.R.S. Sec. 38-511 and to exercise any and all remedies provided in such statute. The City may cancel this Contract if any person significantly involved in negotiating, drafting, securing or obtaining this Contract for or on behalf of the City of Cottonwood becomes an

employee in any capacity of any other party or a consultant to any other party with reference to the subject matter of this Contract.

11.4 Contractor

- 11.4.1 It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.
- 11.4.2 Contractor shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the City, and that such days do not accumulate for the use of same at a later date.
- 11.4.3 The City of Cottonwood will not provide any insurance coverage to Contractor, including Workers' Compensation coverage. The Contractor is advised that taxes or social security payments shall not be withheld from a City payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

11.5 Gratuities

11.5.1 The City may, by written notice to the Contractor, cancel this Contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the City amending, or the making of any determinations with respect to the performing of such contract. In the event this Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Contractor the amount of the gratuity.

11.6 Provisions Required By Law

11.6.1 Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall forthwith be physically amended to make such insertion or correction.

11.7 Severability

11.7.1 The provisions of this Contract are severable to the extent that any provision or application held to be invalid shall not affect any other provision or application of the Contract which may remain in effect without the invalid provision or application.

11.8 Interpretation - Parol Evidence

11.8.1 This Contract is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of this agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any term used in this Contract. Acceptance or acquiescence in a course of performance rendered under this Contract shall not be relevant to determine the meaning of this Contract even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity to object.

11.9 Rights and Remedies

No provision in this document or in the Contractor's response shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of either party to insist upon the strict

performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the Contract, or by law, or the acceptance of materials or services, obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

11.10 Right to Assurance

Whenever one party to this Contract in good faith has reason to question the other party's intent to perform, the former party may demand that the other party give a written assurance of this intent to perform. In the event that a demand is made and no written assurance is given within five (5) days, the demanding party may treat this failure as an anticipatory repudiation with this Contract.

CONSTRUCTION SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this 17th					
Cottonwood, a municipal corporation organized and exist					-
"City", and Tiffany Construction State of Arizona hereinafter called the "Contractor".	_ of the City of _	sedona ,	County of _Y	avapai, an	ıa
WITNESSETH: That the Contractor and the City, agree as follows:	in consideration	of the mutua	al covenants	herein contained	d,
Contract Name: JOB ORDER CONTRACT (JOC) FOR	UNDERGROUN	D CONTRACT	ΓING		
Contract Number:					
Description:					
Term:					

1. Notice to Proceed, Completion Time, and Liquidated Damages

- A. It is agreed that the City Representative will issue the Notice to Proceed with the Work to be performed under this Contract within twenty (20) consecutive calendar days after the date of execution of this Agreement, except in job order contracts where a separate Notice to Proceed will be issued for each individual job order.
- B. The Contractor agrees that the Work shall be prosecuted promptly, regularly, diligently and uninterruptedly at such rate of progress as will ensure full completion thereof within the time specified. It is expressly agreed that the time for completion is a reasonable time, considering average climatic conditions and usual industrial conditions prevailing in the Cottonwood area.
- C. Liquidated Damages. Completion times will be specified in the Notice to Proceed. Applicable liquidated damages shall be assessed for each day the Work remains incomplete after the scheduled completion date. This amount is agreed upon because of the impracticability and extreme difficulty of ascertaining the actual damages the City will sustain on account of late completion.

2. Miscellaneous

- **A. Guarantee.** The Contractor shall guarantee all work under this Agreement against defects of material and workmanship for a minimum of two years from the date of Final Completion.
- **B.** Assignment. Neither party to this Agreement shall assign the Agreement or sublet it as a whole without the written consent of the other, nor shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the City.
- C. Contract Documents. The following listed documents constitute the Contract Documents and they are all as fully a part of this Agreement as if repeated herein:
 - Any and all amendments, Supplementary General Conditions and Special Requirements included herein.
 - 2) Construction Services Agreement.
 - General Conditions for Construction.
 - Special Terms and Conditions.
 - Scope of Work, including any and all Standard, Special, Technical, and Supplementary Specifications included herein.
 - 6) Performance and Payment Bonds.
 - 7) Insurance Requirements.

Precedence. In the event of any inconsistency between any of the terms of the documents enumerated above, such inconsistency shall be resolved by giving precedent to the terms of the above documents in the order listed. Anything in these contract documents to the contrary notwithstanding, the provisions of all pertinent general public laws of the State of Arizona in effect at the time of the execution of this Agreement shall be a part of the Agreement between the parties and shall take precedence over all of the other contract documents.

IN WITNESS THEREOF, the parties hereto have executed three (3) identical counterpart copies of this Agreement on the date and year first written above, each of which copies shall for all purposes be deemed an original hereof.

CITY OF COTTONWOOD

Diane Joens, Mayor

CONSULTANT

By: _

Title: PRESITED

APPROVE AS TO FORM

Steven Horton, City Attorney

ATTEST

Marianne Jimenez, City Clerk

ATTEST (If Corporation):

Secretary

SEAL

NO.

Cathy J Wyatt
NOTARY PUBLIC - ARIZONA
YAVAPAI COUNTY
My Commission Expires
August 13, 2014

1. INTRODUCTION

Notice is hereby given that the City of Cottonwood (City) is conducting a competitive one-step process to retain up to three (3) Contractors for a Job Order Contract (JOC) to provide annual Underground Contracting services for the City of Cottonwood. Individual job orders should not exceed two hundred fifty thousand dollars (\$250,000). The term of this contract will be one (1) year with three (3) one-year renewal options. However, services will be requested on an as-needed, if-needed basis and the resultant contract is neither exclusive nor a commitment by the City that the Contractor's services will be required.

2. BACKGROUND:

Job Order Contracting is an alternative delivery method for construction of public works projects. JOC's differ from the standard project-specific, low bid contracts in that they are indefinite-quantity contracts, which can be awarded on the basis of qualifications. Best value may be considered in awarding the JOC or in awarding job orders under the JOC contract.

3. SCOPE OF REQUIRED SERVICES:

The City of Cottonwood is in need of Water and Wastewater Utilities, Excavating and Storm Water Drainage Job Order Contracting which includes but is not limited to:

- · Replacement of water and sewer service lines.
- Replacement of water and sewer main lines.
- Installation of new water and sewer main and service lines.
- Sewer manhole installation and rehabilitation.
- Mainline water valve replacement and new installation.
- · Replacement and installation of fire hydrants.
- · General excavating, compaction and grading.
- · Confined space pipefitting and repair.
- · Potholing for utility location.
- Pipefitting and replacement/installation of booster stations, wells and wastewater system components.
- Asphalt patching and surfacing including subgrade and base preparation.
- Concrete work including slabs, sidewalks, curb and gutter, etc.
- Flood control and drainage work.
- Demolition of structures.
- · Other Miscellaneous tasks as required.

4. SPECIFICATIONS

All work shall be conducted by an underground contracting firm properly licensed by the State of Arizona and shall conform to Arizona Department of Environmental Quality (ADEQ) rules and guidelines.

5. SAFETY

The Contractor shall provide sufficient safety devices (cones, barricades, tape) to establish a safety zone around the work area. The Contractor shall submit a traffic control plan and provide its personnel with safety vests for projects in the right of way or where vehicular traffic is present, or as requested by the City.

During the construction process, the Contractor shall comply with all applicable federal, state and local (City of Cottonwood) health and safety laws and regulations including, but not limited to all applicable "OSHA Standards for the Construction Industry" including, but not limited to, 29 CFR Part 1926, Subpart P – Excavations. Knowing and following OSHA Safety Standards is the Contractor's responsibility. The City may stop construction on a project until safety concerns have been corrected.

6. CLEAN UP

The Contractor shall clean up all trash and debris generated by their work in a manner acceptable to the using department.

TO THE CITY OF COTTONWOOD:

The Undersigned hereby offers and agrees to enter into negotiations with the City to provide the material or service in compliance with all terms, scope of work, conditions, specifications, and amendments in the solicitation.

For clarification, contact:

Name: Hars C-TIFFANY III

Name: Hars C-TIFFANY III

Phone: Cer - 928-220-0476

Address

Sanata A2 86336

City State Zip

Email: HT3 2TIFFANY Contact:

Name: Hars C-TIFFANY III

Printed Name

PRESIDENT

Title

RECEIPT OF ADDENDA:

Proposer acknowledges receipt of the following Addenda relating to the Request for Qualifications (RFQ) for Roadway and Utility Design Engineering Services for 10TH Street between Mingus Avenue and Main Street in Cottonwood, Arizona.

Addendum No.	Date		
TIFFARDY CONSMUCTION CO. , , NC.	HORB C. TI FRANY II		
Company Name	Representative Name (Print)		
Representative's Signature	7/30/12 Date		

NON-COLLUSION AFFIDAVIT

STATE OF: ARIZONO)
STATE OF: ARIZONA) SS) SS)
HOLB C. TIFFANY TIT
(Name of Company, Representative)
being first duly sworn, deposes and says:
That she/he is PRESIDENT Of TIFFANY Construction Co., colc. (Title) (Name of Company)
(Title) (Name of Company) and
That pursuant to Section 112 (C) of Title 23 USC or other applicable laws, he/she certifies as follows:
That neither he/she nor anyone associated with the said
(Name of Company)
(Name of Company)
has, directly or indirectly entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding for the bid for the:
Job Order Contracting for Underground Contracting
This bid is genuine and not made in the interest of or on behalf of any undisclosed firm or corporations and is not submitted to conform to any agreement or rules of any group, association, organization or corporation. Bidder has not submitted a false bid or solicited whether directly or indirectly with any other Bidder to submit a false bid which would give one particular bid any advantage over others or the owner.
By: (Signature of Individual/Representative)
STATE OF: ARIZONA COUNTY OF: Yaunsai ss.
COUNTY OF: Yarafae
On this the 30 day of July , 20 0 , before me, the undersigned NOTARY PUBLIC, personally appeared Herb C. Tillony TII , who acknowledged to me that they executed the foregoing instrument for the purposes thereincontained.
IN WITNESS WHEREOF I hereunto set my hand and official seal.
NOTARY PUBLIC SEAL
My Commission Expires: August 13, 2014 Cathy J Wyatt NOTARY PUBLIC - ARIZONA
YAVAPAI COUNTY My Commission Expires August 13, 2014

DISCLOSURE OF RESPONSIBILITY STATEMENT

A.	List any convictions of any person, subsidiary, or affiliate of the company, arising out of obtaining, or attempting to obtain a public or private contract or subcontract, or in the performance of such contract or subcontract.
В.	List any convictions of any person, subsidiary, or affiliate of this company for offenses such as embezzlement, theft, fraudulent schemes, etc. or any other offenses indicating a lack of business integrity or business honesty, which affects the responsibility of the contractor.
C.	List any convictions or civil judgments under state or federal antitrust statutes.
D.	List any violations of contract provisions such as failing to perform (without good cause), or unsatisfactory performance, in accordance with the specifications of a contract.
E.	List any prior suspensions or debarments by any governmental agency.
F.	List any contracts not completed on time.
G.	List any penalties imposed for time delays and/or quality of materials and workmanship.
H.	List any documented violations of federal or state labor laws, regulations, or standards, occupational safety and health rules.
I. I	HERB C-TIFFANY THE , as PRESIDENT
,	Name of individual Title & Authority
of_	Company Name Company Name Company Name Company Name
any s	supplemental responses attached hereto, are true.
Ву:	(Signature of Individual/Representative)
STA	TE OF: ARIZONA
	INTY OF: Yavapai) ss.
perso	his the 30 day of July , 20 2 , before me, the undersigned NOTARY PUBLIC, onally appeared Herb C Tillary III , who acknowledged to me that they executed the foregoing ument for the purposes therein contained. Cathy J Wyatt NOTARY PUBLIC - ARIZONA YAVAPAI COUNTY
IN W	WITNESS WHEREOF I hereunto set my hand and official seal. My Stantission Expires August 13, 2014
NOT	My Commission Expires: Hugust 13, 20

CERTIFICATE OF INSURABILITY

	Cottonwood (City) for Solicitation Noact and by the submission of this bid. I hereby d I be selected to be awarded the Contract.	
(10) working days, I am fully aware and under	then become unable to produce the insurance cerstand that this shall constitute a material breamination of the Contract at the sole discretion of the for further projects by City.	ch of this Contract and shall
Signature of Bidder	TOFANY CONSTRUCTION O	o. juk.
7/30/12 Date	_	

CONTRACTOR IMMIGRATION WARRANTY

(To Be Completed by Contractor Prior to Execution of Contract)

A.R.S. § 41-4401 (Government procurement, E-verify requirement, definitions) requires as a condition of your Contract, verification of compliance by the Contractor and subcontractors with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of its employees.

By completing and signing this form the Contractor shall attest that it and all subcontractors performing work under the cited contract meet all conditions contained herein.

Contract Number:			
Name (as listed in the contr	act): TIFFAN	y construction co. 1, wc.	
Street Name and Number:	75 14must	PUTCE	
City: 5200A	State: AZ	Zip Code: 86336	

I hereby attest that:

- The Contractor complies with the Federal Immigration and Nationality Act (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status of those employees performing work under this Contract;
- The Contractor shall verify, through the U.S. Department of Homeland Security's E-Verify program, the
 employment eligibility of each employee who provides services or labor in Arizona for wages or other
 remuneration, and that it shall require its subcontractors and sub-subcontractors to provide the same warranties to
 Contractor.
- All subcontractors performing work under this Contract comply with the Federal Immigration and Nationality Act
 (FINA), all other Federal immigration laws and regulations, and A.R.S. § 23-214 related to the immigration status
 of their employees.
- 4. The Contractor acknowledges that a breach of this warranty by the Contractor or by any subcontractor or subsubcontractor under this Contract shall be deemed a material breach of this Contract, and is grounds for penalties, including termination of this Contract, by Owner.
- 5. Owner retains the legal right to inspect the papers of Contractor, and any subcontractor and sub-subcontractor employee who performs work under this Contract, and to conduct random verification of the employment records of Contractor and each subcontractor and sub-subcontractor who works on this Contract, to ensure that Contractor and each subcontractor and sub-subcontractor is complying with the warranties set forth above.

1APC	100	193		
-	HOZB C		YI	
tle: MESI				

STATUTORY PAYMENT BOND

(Penalty of bond must be 100% of the Contract Amount.)

KNOW ALL MEN BY THESE PRESENTS:

That,	a	s Principal, and	
		ttonwood, Arizona, a municipal corpo dollars	
the payment of which sum w and assigns, jointly and severa		bind ourselves, our heirs, executors, a	dministrators, successors
hereinafter called the Contract	t, for	ract with said Obligee dated	
which Contract shall be deem agreed to furnish a bond such		f set forth herein, and under the terms	thereof the Principal has
to all persons supplying labor	or materials to him or his sunt or extension of or addition	uch that if the said Principal shall pron becontractors in the prosecution of the to said Contract, then this obligation sl	work provided for in said
of Title 34, Chapter 2, Article	e 2, of the Arizona Revised S e determined in accordance	sired of the said Principal in order to co Statutes, all rights and remedies on this with the provisions, conditions and lied at length herein.	bond shall insure solely
The prevailing party or any pa as may be fixed by the court of		on this bond shall be entitled to such r	easonable attorney's fees
		s of this instrument, each of which se Principal and Surety named, on the	
Principal	Seal	Surety	Seal
Agency of Record			

NOTE: A certified copy of Power of Attorney of the persons signing for the Surety Company must be filed with the Bond. In the event the Power of Attorney attached hereto is revoked, the Surety shall notify the city Clerk directly in writing. Said Power of Attorney shall remain in full force and effect until such direct notice is given to the City.

STATUTORY PERFORMANCE BOND

(Penalty of this bond must be 100% of the Contract amount.)

KNOW ALL MEN BY THESE Pof the Purchasing Agent on	PRESENTS: That the City, 20	of Cottonwood, Ariz has awarded to	ona, a municipal corporation, by	action
hereinafter designated as the "Prin	cipal", a Contract for the	construction of		
which Contract is hereby referred	to and made part hereof as	s fully and to the same	extent as if copied at length herei	n; and
WHEREAS, said Principal is requ 2, of the Arizona Revised Statutes	uired under the terms of sa , to furnish a bond for the	aid Contract, and the p	rovisions of Title 34, Chapter 2, f said Contract;	Article
NOW THEREFORE d. Dein	ainal and		a corp	oration
NOW, THEREFORE, we the Print organized and existing under the language of the control of the con	after called the Surety),	as Surety, are held	and firmly bound unto the C	my or
themselves, and their heirs, adm	dollars (\$),	for the payment wher	eof, the said Principal and Sure	ty bind
NOW, THEREFORE, the conditional the undertakings, covenants, contract and any extension thereof the Contract, and shall also perform and all duly authorized modificate Surety being hereby waived; then	terms, conditions and ag f, with or without notice to rm and fulfill all the under tions of said Contract that	the Surety, and during ortakings, covenants, to may hereafter be made	ntract during the original term of the life of any guaranty required erms, conditions, and agreements le, notice of which modifications	of said d under of any
PROVIDED, HOWEVER, that the Arizona Revised Statutes, and all Title, Chapter and Article to the e	l liabilities on this bond s	shall be determined in	of Title 34, Chapter 2, Article 2 accordance with the provisions	of the of said
The prevailing party or any party as may be fixed by the court of a	which recovers judgment judge thereof.	on this bond shall be e	ntitled to such reasonable attorne	y's fees
IN WITNESS WHEREOF two deemed an original thereof, have, 20	been duly executed by the	of this instrument, e Principal and Surety n	ach of which shall for all purpo amed, on the day of _	oses be
Principal	Seal	Surety	- 5	Seal
Agency of Record				
NOTE: A certified copy of Power In the event the Power of Attorn Said Power of Attorney shall rem	ey attached hereto is revo	ked, the Surety shall i	notify the City Clerk directly in	e Bond. writing.

CONSENT OF SURETY TO FINAL PAYMENT AND FULL RELEASE OF CONTRACT RETAINAGE OR SUBSTITUTE SECURITIES

payment bond for the p	ayment of labor and	d material provided to the City of Cottonwood	
(hereinafter "Contracto	r'') in connection w	with City of Cottonwood Contract No.	. (hereinafter
the "Project") hereby of by City in connection v	consents to final pay	yment and full release of all retainage or substitute	securities to Contractor held
Surety further releases asserted against City connection with the Pro-	as a result of City	ns, past, present, future, known or unknown which 's final payment and release of the retainage or	it may assert or could have substitute securities held in
release of retainage of	substitute securiti	city of any liability or responsibility in connection less to the Contractor in connection with the Project on under the payment bond issued for the Project.	with final payment and full ect and shall in no way be
Surety		Seal	
STATE OF:)		
) ss.		
COUNTY OF:)		
IN WITNESS WHERE before me, the undersign purposes therein contain	ned NOTARY PUB	executed this instrument thisday of LIC, who acknowledged to me that they executed the	, 20, e foregoing instrument for the
IN WITNESS WHERE	OF I hereunto set my	y hand and official seal.	
		SEA	ř.
NOTARY PUBLIC		SEA!	
My Commission Expires	3:		

City of Cottonwood, Arizona
City Council Agenda Communication



国 Print

Meeting Date: September 1, 2015

Subject: Renewal of the Intergovernmental Agreement with Mingus

Union High School District for Use of the Cottonwood

Aquatics Center

Department: Community Services

From: Richard Faust, Community Services General Manager

REQUESTED ACTION

Renewal of the Intergovernmental Agreement with the Mingus Union High School District for full use of the Cottonwood Aquatics Center facility from August to November 2015.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to renew the Intergovernmental Agreement with Mingus Union High School District for use of the Cottonwood Aquatics Center from August through November, 2015."

BACKGROUND

As previously discussed by City Council in 2014, approval was granted for MUHS to use city pool facilities in the amount of \$7,500 and would be reviewed annually as to what MUHS could afford.

Council did state that they would like to see MUHS try to meet 50% of costs in the future, however understand the financial implications of the School District during hard economic times. Staff has discussed with the MUHS Superintendent whereby the School District is able to once again come up with \$7,500 for the 2015 Swim Team season. Superintendent Tighe identified that budget issues have continued to plague the resources of the school system and that Mingus has very little funding to support pool operations. Similar to last year, Dr. Tighe and his Board recognize that with the District's limited budget they could not afford the total contribution recommended by city staff at 50% costs of utilities and operations which would be close to \$10,500. MUHS is once again requesting the city's assistance this year in helping them keep the swim program alive by reducing the level of shared costs for the District. It is the School Districts hope that future funding levels increase as they are at the mercy of the state legislature.

The following identifies the language of School District Payment within the Agreement.

5. School District Payment. Within 30 days of the date this Agreement is approved by both parties, the District shall pay the City the sum of seven thousand – five hundred dollars (\$7,500.00) as the District's share of the cost of operating the pool in 2015. In subsequent years, the City shall notify the District of its proportional share of the cost of operating the pool in that year by or before July 1 of that year, and the District shall pay that sum to the City within 30 days of commencing to use the pool in that year.

JUSTIFICATION/BENEFITS/ISSUES

Cottonwood contributes towards youth programming throughout the community of Cottonwood and extending beyond borders of Cottonwood. As stated last year by the Council, the City continues to seek and is desirous of cost sharing pertaining to such youth activities, and is willing to continue contributing where it can in order to assist with both operational and administrative costs annually. However, the District is struggling to meet basic educational needs and the additional costs of the pool place more burdens on their limited budget and they are once again making a request for assistance this year.

COST/FUNDING SOURCE

If the Council approves the reduction in the cost sharing amount contributed by MUHSD, the additional costs in the amount of approximately \$3,000 would be absorbed in the City's General Fund.

ATTACHMENTS:			
Name:	Description:	Type:	
IGA_for_MUHS_Use_of_Outdoor_Pool FY_201607-20-15.docx	IGA Mingus Union High School - Use of Aquatics Facility	Cover Memo	

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF COTTONWOOD AND MINGUS UNION HIGH SCHOOL

(Cottonwood Outdoor Aquatics Center)

This Intergovernmental Agreement ("Agreement") is made and entered into this __th day of ____, 2015, between CITY OF COTTONWOOD, an Arizona municipal corporation ("City"), and MINGUS UNION HIGH SCHOOL DISTRICT of YAVAPAI COUNTY, ARIZONA, a political subdivision of the State of Arizona ("School District"), hereinafter collectively referred to as the "parties".

RECITALS:

- A. Pursuant to A.R.S. § 11-951 *et seq.*, City and School District may contract for services or jointly exercise any powers common to the contracting parties and may enter into intergovernmental agreements with one another for joint or cooperative action.
- B. City is authorized by A.R.S. §§ 9-240 and 9-276, to enter into this Agreement.
- C. School District is authorized by A.R.S. § 15-364 to enter into this Agreement.
- D. City upgraded and expanded its outdoor aquatics facility ("Aquatics Facility") in July, 2010, and desires to make that facility available to School District for its use from a varying, agreed-upon date in August of each year this Agreement is in effect through a varying, agreed-upon date in November of each such year, under the terms and conditions set forth herein, which terms and conditions shall include the School District's payment of a share of the costs of utilities (APS, UNS Gas, Water and Sewer Utilities), chemicals, and labor (*i.e.*, lifeguards, pool maintenance, and custodial service) required and used to operate the facility during the months of use for each year that this Agreement is in effect.

NOW, THEREFORE, in consideration of the above recitals and mutual promises set forth below, City and School District agree as follows:

- City Grant of License to Use Aquatics Facility. City hereby grants to School District a limited license subject to School District control pursuant to this Agreement to use the Aquatics Facility to provide physical education classes, lap swim programs, and extracurricular athletic activities at the Aquatics Facility for the benefit of students at Mingus Union High School, and to use the parking area of the Aquatics Facility for benefit of students and members of the public attending Mingus Union High School athletic events.
 - 1.1. The license granted to School District is subject to the terms and conditions stated in this Agreement.
 - 1.2. The license granted shall commence upon an agreed-upon date in August and last through an agreed upon date in November of each year which will be deemed the normal use period for High School Use of Outdoor Pool facilities by the City.
- 2. <u>Scheduling and Use of Aquatics Facility by School District.</u> On or before August 1 of each year that this Agreement is in effect, the parties shall develop a schedule for the School District's use of the Aquatics Facility for the upcoming season, including classes and other educational programs;

practices; meets/tournaments; and other events and activities for which the School District anticipates a need to use the Aquatics Facility, including any use of the Aquatics Facility by third-parties associated with School District. All proposed uses shall be subject to City review and approval.

- 3. Aquatics Facility Operations & Maintenance. City shall provide all management of facilities for use of the Aquatics Facility involving pool mechanical operations, cleaning and overall maintenance and upkeep to keep facilities attractive and safe for all School District users. This will include all pool vacuuming, chemical feeding, monitoring of chemical feed systems, and management of pool pumps, motors and apparatus. City will make available all bath-house changing rooms/restroom/shower facilities for use and year-round deck space for a 12' x 16' storage shed area.
- 4. <u>School District Operation/Ownership of Scoreboard and Electronic Touchpad Systems</u>. City will authorize the School District's construction and installation of scoreboard/timing and underground electronic control systems at the Aquatics Facility. City will not be responsible for loss, damage or vandalism of the systems nor will City be responsible for the upgrades, maintenance, or repairs to such systems on City property at any time, unless damage is incurred by the negligence of City staff, or damages occur during the course of normal operating hours during a City program/event. (*See* Section 10).
- 5. School District Payment. Within 30 days of the date this Agreement is approved by both parties, the District shall pay the City the sum of seven thousand, five hundred dollars (\$7,500.00) as the District's agreed-upon share of the cost of operating the pool in FY 2015-2016. In subsequent years, the City shall notify the District of its proportional share of the cost of operating the pool in that year by or before July 1 of that year, and the District shall pay that sum to the City within 30 days of commencing to use the pool in that year.

6. Scope of School District Use:

- 6.1. School District shall have use of the Aquatics Facility for all athletic competitions, practice and educational activities benefiting students at Mingus Union High School from 3:00 p.m. to 6:00 p.m. Monday through Friday, 7:00 a.m. to 10:00 a.m. on Saturdays, or as dictated by events or scheduling activities identified to City Recreation Center staff.
- 6.2. School District shall be able to use the Aquatics Facility for school-related activities or other activities as authorized by City, whereby School District shall supervise all activities as scheduled.
- 6.3. School District shall have the right to use any available parking spaces in the parking area for the benefit of students and members of the public attending any event, activity or program as scheduled.

7. City Responsibilities.

- 7.1. City shall have general responsibility for operation and maintenance of the Aquatics Facility. Without limiting the generality of the foregoing, City shall:
 - a. Provide for American Red Cross certified lifeguards necessary for supervising safe use of the pool and the facility where necessary when School District does not have personnel available with these credentials. City shall charge School District for such staff and labor at normal City pay rates for personnel, not to exceed \$15.00 per hour

- per guard or supervisor.
- b. Reserve use of facilities, as necessary, for use by School District.
- c. Provide all necessary equipment for the operation of the Aquatics Facility safely and efficiently and ensure that City staff operate said the mechanical systems and pumps for proper facility operations.
- d. Provide proper supervision to ensure that the Aquatics Facility, including without limitation, diving structures, lane lines, and pool equipment, are properly used and that pool users follow established rules and regulations of the City's Aquatics Facility Manual in regards to safe use of the pool and outlying facilities.
- e. Provide all custodial maintenance operations for bathhouse and restroom facilities at City cost during the School District's use of the Aquatics Facility from the agreed-upon date in August through November 15 of each year. Custodial services will be provided three times a week with a local company in order to keep the facilities clean and sanitized for School District use.
- f. Have the right to operate or contract to have operated a concession stand at the Aquatics Facility, and any profits, fees or charges in connection therewith being retained by City.
- g. Not charge admission fees or charges to the public; however it will allow School District to do so, should School District authorize such fees for program activities.
- h. Contact School District Athletic Director (or designee) in the event of any power outage or other condition which would prompt the shut-down of the Aquatics Facility pending power restoration or repairs.
- 7.2. Except as stated in Section 8.1(a) below, City shall have responsibility for general maintenance and upkeep of the Facility, including without limitation, maintenance of the pool equipment, heaters, diving structure, supplies, water chemistry, vacuuming and cleaning.
- 7.3. A cleaning and vacuuming schedule shall be coordinated with School District pursuant to which City shall be allowed three (3) days each week, for a minimum of four (4) hours per day, to maintain proper cleaning and maintenance of the Aquatics Facility.
- 7.4. At all times, City shall oversee routine maintenance, including but not limited to, backwashing, daily equipment checks and/or adjustments, equipment repairs and/or replacement.
- 7.5. At all times, City shall have responsibility for the condition of the equipment and water chemistry of the Aquatics Facility. Periodically, City shall evaluate pool conditions for safe swimming, and shall have the authority to close the pool at any time when it determines that pool conditions are unsafe, subject to any ruling or determination made by the Yavapai County Health Department and regulations as specified.
- 8. School District Responsibilities.

- 8.1. While the School District is exercising its license to use the Aquatics Facility, School District shall:
 - a. Be responsible for safe pool use and for hosing off the pool deck, trash pick-up and supervision of students, swim teams, or other persons using the Aquatics Facility for education, athletic or competition purposes. School District shall also be responsible for maintaining its storage area in a clean and orderly manner.
 - b. Provide supervision to ensure that the pool facility, including without limitation, diving structures, lane lines, and pool equipment, are properly used and that pool users follow established rules and regulations of the City's Aquatics Facility Manual in regard to safe use of pool facilities. School District personnel MUST KEEP POOL GATES AND DOORS LOCKED AT ALL TIMES. School District personnel should also take proper action with students who abuse pool rules, equipment and diving structures in order to ensure a safe aquatic environment. School District personnel should provide adequate training on use of equipment and use of facilities.
 - c. Provide American Red Cross certified lifeguards necessary for supervising safe use of the pool and Aquatics Facility. School District personnel supervising any activity must hold current American Red Cross life-saving certification to avoid the assignment of City staff to supervise the activity. If assistance of City staff is needed for any School District sponsored activity or function, School District shall reimburse City for the time and labor of City staff needed for the activity.
 - d. Be responsible for training system, kick boards and other equipment associated with, and used by, swim teams.
 - e. Pay in a timely manner the invoices submitted to it by the City on a monthly basis, as more fully described in Section 5.

9. Coordination of Use.

- 9.1. School District shall cooperate with City to coordinate use and scheduling of the Aquatics Facility through Cottonwood Community Services Department, Aquatics Division, whose mailing address and phone number are, respectively: 827 North Main Street, Cottonwood, Arizona 86326; (928) 639-3200.
- 9.2. Pool heaters on site at the Aquatics Facility shall be used as necessary for the School District. School District may require the use of such heaters during its use of the pool facility. In such event, City shall start, monitor, operate and turn off the pool heaters, as required. The heaters shall be operated at a "set" temperature mutually agreed upon by the parties. School District personnel shall not operate pool heaters.
- 9.3. City shall notify School District when maintenance or repairs will require the water to be shut off in and around the pool areas during any time period that the School District has a right to or is otherwise scheduled to use the Aquatics Facility.
- 9.4. City and School District shall mutually establish rules, regulations and policies, where necessary, including so called "pool rules," pertaining to the safe use of the pool and the Aquatics Facility in a cooperative manner. All formal pool rules shall be in accordance with the City's Aquatics Facility Manual, whereby it shall be in the best interest of both parties to

cooperate with each other in effectively operating and maintaining the Facility.

10. Reimbursements and Capital Repairs.

- 10.1. City shall reimburse School District for any repair or replacement of School District property, or the School District storage area or equipment damaged by City or damaged during the use of the Aquatics Facility by City or during City sponsored or approved activities. School District shall reimburse City for any repair or replacement of City property, equipment or fixtures damaged by School District or damaged during the School District's use of the Aquatics Facility or during use of the Aquatics Facility for any School District sponsored activity at the Aquatics Facility.
- 10.2. In the event that damage to the Aquatics Facility requiring repair or replacement does not arise from the negligence or willful misconduct of either party, and is of a type that under generally accepted accounting principles is to be capitalized or depreciated, the parties shall equally share the cost of such repair or replacement. The parties shall mutually determine when the cost of such repair or replacement will be incurred.

11. Insurance.

- 11.1. Each of the parties shall secure and maintain during the life of this agreement: statutory worker's compensation insurance with employer's liability policy limits in the amount of \$1,000,000 for each incident for bodily injury, \$1,000,000 for bodily injury by disease, and \$1,000,000 for each employee for bodily injury by disease; commercial general liability insurance, including contractual liability for assumption of the tort liability under this agreement, and personal injury liability, with limits of not less than \$10,000,000 per occurrence; and commercial automobile liability insurance for any owned, hired or non-owned autos, with a limit of not less than \$1,000,000 each accident. Each party shall retain the option of discharging this obligation by means of funded self-insurance, or by membership and participation in a statutorily authorized public-entity insurance pool. Should coverage be provided on a claims-made basis, the reporting period for claims shall be written so that it can be extended for not less than two (2) years.
- 11.2. City shall secure and maintain property insurance coverage protecting the Aquatics Facility, including the structural portion of the School District's storage area, and any City personal property at the Aquatics Facility against all risk of physical damage and loss for its full replacement cost. School District shall obtain similar coverage for the personal property it maintains in the Aquatics Facility. School District and City hereby mutually waive their respective rights of recovery against each other for any loss insured by property insurance coverage existing for the benefit of the respective parties with the exception that City shall be entitled to any insurance proceeds received for damage loss to the swimming pool structure if the funds are not used to repair or rebuild the structure. City and School District shall provide at least thirty (30) days' notice of cancellation or material change in coverage. Each party shall list the other party as an additional insured on all applicable insurance policies. The parties agree to review annually the limits and types of insurance required herein and may, by mutual agreement, amend the requirements of this Section 11, as they deem necessary.
- 11.3. City's responsibility, whether by insurance or self-insurance, shall be primary or designated as primary in respect to the acts and omissions of its employees and its operation of the Aquatics Facility. School District's responsibility, whether by insurance or self-insurance, shall be primary or designated as primary in respect to the acts and omissions of its

employees and its operation or use of the Aquatics Facility.

12. Hold Harmless and Indemnification.

- 12.1. To extent permitted by law, City shall defend, indemnify and hold harmless School District, its officers, employees and agents, from and against any and all claims, demands, suits, actions or proceedings of any kind or nature, for damages to property or injuries to or death of any person or persons, including employees or agents of School District, and including, but not by way of limitation, worker's compensation claims, resulting from or arising out of the negligent or wrongful acts, errors or omissions of City, its officers, employees, agents, consultants, contractors or subcontractors. This paragraph 12.1 shall survive the termination of the Agreement.
- 12.2. To extent permitted by law, School District shall defend, indemnify and hold harmless City, its officers, employees and agents, from and against any and all claims, demands, suits, actions or proceedings of any kind or nature, for damages to property or injuries to or death of any person or persons, including employees or agents of City, and including, but not by way of limitation, worker's compensation claims, resulting from or arising out of the negligent or wrongful acts, errors or omissions of School District, its officers, employees, agents, students, guests, consultants, contractors or subcontractors. This paragraph 12.2 shall survive the termination of the Agreement.
- 12.3. In the event of any third party legal action against both School District and City, the parties agree to discuss and analyze the benefits of a common, mutual defense.

13. Expiration or Termination.

- 13.1. Unless renewed by mutual agreement of the parties, this Agreement and the license granted hereunder to School District to use the Aquatics Facility shall automatically terminate without further action required by either party on the yearly anniversary of the Commencement Date. However, if requested by City, School District shall execute and record an instrument evidencing the termination of the license granted under this Agreement.
- 13.2. In the event that the City fails to observe or perform any of the covenants, conditions and terms of this Agreement which are required to be observed or performed by City, where such failure shall continue for a period of thirty (30) days after written notice thereof from School District, then School District may terminate this Agreement within a 30-day period by any lawful means or proceed with whatever steps School District may deem necessary in order to enforce the rights and remedies available to School District under this Agreement, at law or equity, including, without limitation, the right of specific performance of this Agreement or the right to recover its damages from City.
- 13.3. In the event that School District fails to observe or perform any of the covenants, conditions and terms of this Agreement which are required to be observed or performed by School District, where such failure shall continue for a period of thirty (30) days after written notice thereof from City, then City may terminate this Agreement within a 30 day period by any lawful means or proceed with whatever steps City may deem necessary in order to enforce the rights and remedies available to City under this Agreement, at law or equity, including, without limitation, the right of specific performance of this Agreement of the right to recover its damages from School District.

- 14. <u>Assignment.</u> This Agreement and the rights accorded to and the obligations required of the parties hereunder shall not be assigned, delegated, granted, conveyed or otherwise transferred to any third party without the express, written consent of the other party, and such assignment, delegation, grant, conveyance, or other transfer made by a party without the consent of the other party shall be deemed void and shall constitute good cause for the termination of this Agreement and the rights granted hereunder.
- 15. <u>Nature of License to Use</u>. The revocable license granted herein to School District is expressly intended *not* to run with the land or be appurtenant to the land upon which the Aquatics Facility is situated or Mingus Union High School is located, but is expressly intended to be personal for the benefit of the School District for the limited purposes stated herein.
- 16. <u>No Third-party Beneficiaries</u>. Failure to comply with the terms of this Agreement shall not provide the basis of any third party action against either of the parties, and there are no third party beneficiaries of this Agreement.
- 17. <u>Lack of School District Funding</u>. If funding is not available to School District pursuant to A.R.S. § 15-910 to discharge its financial obligations pursuant to this Agreement, the parties shall attempt to renegotiate the terms of this Agreement related to payment of utilities so as to establish or identify a source of funding for its payment obligations as set forth in this Agreement. In the event the School District cannot or does not meet its financial obligations to the City under this Agreement for the reasons stated herein, City shall have the right to immediately discontinue heating of the swimming pool and all other operations on the School District's behalf at the Aquatics Facility, and/or to terminate this Agreement and School District's license hereunder.
- 18. Execution and Recordation. This Agreement shall become effective as of <u>August 1, 2014</u>. The terms and conditions of this Agreement shall remain in full force and effect unless modified in writing by the parties.
- 19. <u>Notice</u>. Whenever a notice or other communication is required or permitted to be given, it shall be given in writing and delivered personally, or delivered by the postal service, certified mail, return receipt requested, to the other party at the address indicated below, or at such other address as may be designated by either party:

If to City: City of Cottonwood

827 North Main Street

Cottonwood, Arizona 86326

With a Copy to: City of Cottonwood – City Attorney's Office

827 North Main Street Cottonwood, Arizona 86326

If to School District: Mingus Union High School District

Superintendent 1801 East Fir Street

Cottonwood, Arizona 86326

20. <u>Counterparts</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have example and date first written above.	ecuted this Agreement by signing their names on the day
CITY OF COTTONWOOD	MINGUS UNION HIGH SCHOOL DISTRICT
By: Mayor	By:Board President
	OL DISTRICT AND ATTORNEYS s reviewed the proposed Intergovernmental Agreement
between the City of Cottonwood and the M	ingus Union High School District, and do declare the powers and authority granted to their respective governing
Ву:	By:
Cottonwood City Attorney	Attorney for Mingus Union High School District
Date	Date

 $21. \ \underline{Conflict\ of\ Interest}.\ This\ Agreement\ is\ subject\ to\ termination\ pursuant\ to\ A.R.S.\ \S\ 38-511.$

City of Cottonwood, Arizona
City Council Agenda Communication



国 Print

Meeting Date: September 1, 2015

Subject: Thunder Valley Rally Productions (Stage, Sound, Lighting, &

Backline)

Department: Community Services

From: Richard Faust, Community Services Gen. Manager/Hezekiah

Allen, Recreation Services Supervisor

REQUESTED ACTION

Possible award and approval of the contract for RFP 2015-PR-01; Thunder Valley Rally Production Services.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to award the contract for Thunder Valley Rally Production Services to Total Sound Productions subject to approval of the final form of contract and payment schedule by the Purchasing Manager and City Attorney."

BACKGROUND

Staff issued a Request for Proposals on April 13th, 2015 for Thunder Valley Rally Production Services. The intent of this solicitation was to enter into a contract for Production Services needed for Thunder Valley Rally. These services include; sound, stage, lighting, and backline provided for the musical performances by the National Acts.

The solicitation was published in the newspaper in consecutive weeks and was posted on Public Purchase as well as the City website. Four (4) completed proposals were received by the deadline.

The evaluation committee consisted of three (3) staff members, two (2) TVR committee members, and the owner of a local production company. The review and rankings were based on the criteria established in the Request for Proposals. Alive Productions, Peaks Audio and Total Sound Productions received the highest cumulative score from all committee members.

Because the top three companies were ranked so closely, best and final offers were requested from Alive Productions, Total Sound Productions and Peaks Audio. Upon receipt of the best and final offers and further negotiations, Total Sound Productions was deemed the most advantageous and cost effective proposer to provide Thunder Valley Rally Production services for the city in the amount of \$36,149.

JUSTIFICATION/BENEFITS/ISSUES

The award of the bid for Thunder Valley Rally Production Services for the City of Cottonwood will provide the City with the ability to provide the performance services required by the National Acts who are scheduled

to perform at Thunder Valley Rally.

COST/FUNDING SOURCE

Thunder Valley Rally Production Services contract is budgeted in the Parks and Recreation TVR Event budget and the total cost to the General Fund will be \$36,149.

ATTACHMENTS:			
Name:	Description:	Type:	
9-1-15_TSP-TVROffer-Final.pdf	Best and Final Offer Proposal	Cover Memo	
PROFESSIONAL SERVICES ACREEMENT 2015.pdf	PSA 2015 TVR	Cover Memo	

RFP # 2015-PR-01 -TVR Productions BEST & FINAL OFFER

1.	Offeror Information_TOTAL SOUND TROSUCTIONS, LLC
	Contact Name: MARIC BOWMAN/ LYNN ANZALDUA
	Principal Address: 9545 W. RUMMING DEER TRAIL
	PEORIA, AZ 85383
	Phone: 602-244-9595 Fax: 602-244-9191
	Email: TOTAL SOUND PRO@COX, NET/LYNIN@ TOTAL SOUND PRO,
	Phone: 602-244-9595 Fax: 602-244-9191 Email: TOTAL SOUND PRO@COX. NET/LYNIM@TOTAL SOUND PRO. Local Address: SAME AS ABOVE
	Type of Organization: PROSUCTION COMPANY
	Type of Organization: PRODUCTION COMPANY Tax ID #: 26-3912784 License #:
2.	Exceptions to RFP:
	(See Information & Instructions §4.5.4 Exceptions to Solicitation)
3.	Disclosure of Debarment Information:(See Information & Instructions §4.5.5 Disclosure)
4.	Fees
effective include taxes, p	feror shall present all Fee information in this section. The cost proposal below shall include all work necessary to vely conduct and complete the Scope of Services (Exhibit A). The costs stated herein <u>must be a firm fee that</u> es <u>ALL</u> necessary costs including, but not limited to, labor, installation, materials, overhead, administrative charges, profit, insurance and any other expenses associated with the required services. Any optional items shall be priced trached sheet.

Sound System

Cost to provide sound sytem described in Scope of Work (Exhibit A).

Stage

SHOW STAGEHANDS 3000 00

Cost to provide a stage comparable to stage as described in Scope of Work (Exhibit A).

(If alternate options exist please list those options and prices in the margin)

1364500

Lighting

Cost to provide lighting as described in Scope of Work (Exhibit A).

Plot #2 \$ N/A

Backline

Cost to provide backline as described in Scope of work (Exhibit A).

TOTAL COST With Light Plot #1

Intent to be Bound by Offer: Sum of Individual Authorized to Sign Bid)

(Signature of Individual Authorized to Sign Bid)

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made as of this da	y of,
20, between the CITY OF COTTONWOOD, an Arizona municipal corporation (the "City") and	
, (the "Consultant").	

AGREEMENT

In consideration of the following mutual covenants and conditions, the City and the Consultant hereby agree as follows:

- **A. Term of Agreement**. This Agreement shall be effective as of the date first set forth above and shall remain in full force and effect until _______ (date). At the discretion of the City Council, the Agreement may be renewed for two (2) additional one (1) year periods.
- **B. Scope of Services**. The Consultant shall provide the Services as set forth in the attached Scope of Services, which is marked as Exhibit A and incorporated by reference herein.
- **C. Compensation**. The City shall pay the Consultant for the Services as set forth in the attached Offer Section, which is marked as Exhibit B and incorporated by reference herein.
- **D. Payments.** The City shall pay the Consultant subject to the Consultant submitting an invoice to the City for each requested payment. Invoices shall itemize all Services completed to the date of the invoice and provide sufficient detail to justify payment.
- **E. Insurance.** The Consultant shall maintain during the term of this Agreement insurance policies described below issued by companies licensed in Arizona with a current AM Best rating of A:VIII or better. The City's Risk Management reserves the right to review and make an exception for substitute/alternative coverage. Failure to maintain insurance as specified herein may result in termination of this Agreement at the City's option

Before the City signs this Agreement, the Consultant shall furnish the City's Risk Manager with certificates of insurance evidencing the coverages, conditions, and limits required by this Agreement, at the following address:

City of Cottonwood Risk Manager 816 N Main Street Cottonwood, AZ 86326

Telephone: (928) 340-2717 / Fax: (928) 634-3727

The insurance policies, except Worker's Compensation and Professional Liability, shall be endorsed to name the City of Cottonwood, its agents, officers, officials, employees, and volunteers as additional insureds with corresponding endorsement relative to the additional insured indemnification and with the following language:

The City of Cottonwood, its agents, officers, officials, employees, and volunteers are hereby named as additional insureds as their interest may appear.

If any insurance policies are written on a "claims made" basis, coverage shall extend for two (2) years past completion and acceptance of the Consultant's work or services and must be evidenced by annual certificates of insurance. The insurance policies shall be endorsed stating that they shall not expire, be cancelled, suspended, voided or materially changed without thirty (30) days written notice by certified mail to the City of Cottonwood Risk Manager. The Consultant's insurance must be primary, and any insurance or self-insurance maintained by the City shall not be contributed to it. If any part of this Contract is

subcontracted, these insurance requirements also apply to all subcontractors. The following policies are required:

- 1. Commercial General Liability insurance with a limit of not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) aggregate for bodily injury, property damage, personal injury, products and completed operations, including but not limited to, the liability assumed under the indemnification provisions of this Contract.
- **2. Automobile Liability** insurance with a combined single limit for bodily injury and property damage of not less than one million dollars (\$1,000,000) each occurrence with respect to the Consultant's owned, hired, and non-owned vehicles.
- 3. Worker's Compensation insurance with limits statutorily required by any Federal or state law and Employer's Liability insurance of not less than one million dollars (\$1,000,000) for each accident, one million dollars (\$1,000,000) disease for each employee.
- **4. Professional Liability** insurance covering acts, errors, mistakes, omissions arising out of the work or services performed by the Consultant, or any person employed by the Consultant, with a limit of not less than one million dollars (\$1,000,000) each claim.
- **F. Indemnification.** To the fullest extent permitted by law, the Consultant shall defend, indemnify, and hold harmless the City of Cottonwood, its agents, officers, officials, employees and volunteers from and against all claims, damages, losses, and expenses (including but not limited to attorney fees and court costs) arising from the acts, errors, mistakes, omissions, work or service of the Consultant, its agents, employees, or any tier of Consultant's subcontractors in the performance of this Agreement. The requirements in Paragraph E will not be construed as limiting the scope of this indemnification.
- G. Applicable Law; Venue. In the performance of this Agreement, the Consultant shall abide by and conform to any and all laws, codes and ordinances of the United States, State of Arizona and City of Cottonwood, including but not limited to, federal and state executive orders providing for equal employment and procurement opportunities, the Federal Occupational Safety and Health Act and any other federal or state laws applicable to this Agreement. This Agreement shall be governed by the laws of the State of Arizona and suit pertaining to this Agreement may be brought only in courts in the State of Arizona.

H. Termination; Cancellation

- 1. For City's Convenience. This Agreement is for the convenience of the City and, as such, may be immediately terminated without cause after receipt by the Consultant of written notice by the City. Upon termination for convenience, the Consultant shall be paid for all undisputed services performed to the termination date.
- **2. For Cause**. This Agreement may be terminated by either party upon thirty (30) days written notice should the other party breach any of its terms or otherwise violate the law in connection with the performance of any duty imposed on the party by the terms of this Agreement. In the event of such termination, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.
- **3. Due to Work Stoppage**. This Agreement may be terminated by the City upon thirty (30) days written notice to the Consultant in the event that the Services are permanently abandoned. In the event of such termination due to work stoppage, payment shall be made by the City to the Consultant for the undisputed portion of its fee due as of the termination date.
- 4. Conflict of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511. The City may cancel this Agreement without penalty or further obligations by the City or any of its departments or agencies if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement on behalf of the City or any of its departments or agencies is,

at any time while the Agreement or any extension of the Agreement is in effect, an employee of any other party to the Agreement in any capacity or a consultant to any other party of the Agreement with respect to the Agreement's subject.

- 5. Gratuities. The City may, by written notice to the Consultant, cancel this Agreement if it is found by the City that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Consultant or any agent or representative of the Consultant to any officer, agent or employee of the City for the purpose of securing this Agreement. In the event this Agreement is cancelled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold from the Consultant an amount equal to one hundred fifty percent (150%) of the gratuity.
- **6. Fund Appropriation Contingency**. The Consultant understands that the continuation of this Agreement after the close of any given fiscal year of the City, which ends on June 30, shall be subject to the budget of the City providing for the contract item as expenditure. The City cannot assure that the budget item for funding this Agreement will be approved in the future; as such assurance would be a legislative and policy determination of the City Council at the time of the adoption of the budget. Should the funding of the Agreement not be approved by City Council, the City may terminate this Agreement as of the close of its fiscal year.

I. Miscellaneous

- 1. Independent Contractor. The Consultant acknowledges and agrees that the Services provided under this Agreement are being provided as an independent contractor, not as an employee or agent of the City. The Consultant, its employees and subcontractors are not entitled to workers' compensation benefits from the City. The City does not have the authority to supervise or control the actual work of the Consultant, its employees or subcontractors. The Consultant, and not the City, shall determine the time of its performance of the services provided under this Agreement so long as the Consultant meets the requirements of its agreed scope of work as set forth in Section 2 above. The Consultant is neither prohibited from entering into other contracts nor prohibited from practicing its profession elsewhere.
- **Laws and Regulations**. The Consultant shall keep fully informed and shall at all times during the performance of its duties under this Agreement ensure that it and any person for whom the Consultant is responsible remains in compliance with all rules, regulations, ordinances, statutes or laws affecting the Services, including the following: (i) existing and future City and County ordinances and regulations, (ii) existing and future state and federal laws and (iii) existing and future Occupational Safety and Health Administration ("OSHA") standards.
- **3. Amendments.** This Agreement may be modified only by a written amendment signed by persons duly authorized to enter into contracts on behalf of the City and the Consultant.
- **4. Provisions Required by Law**. Each and every provision of law and any clause required by law to be in the Agreement will be read and enforced as though it were included herein and, if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement will promptly be physically amended to make such insertion or correction.
- **Severability**. The provisions of this Agreement are severable to the extent that any provision or application held to be invalid by a Court of competent jurisdiction shall not affect any other provision or application of the Agreement which may remain in effect without the invalid provision or application.
- **Relationship of the Parties**. It is clearly understood that each party will act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of

the other for any purpose whatsoever. The Consultant is advised that taxes or Social Security payments will not be withheld from any City payments issued hereunder and the Consultant agrees to be fully and solely responsible for the payment of such taxes or any other tax applicable to this Agreement.

- 7. Entire Agreement; Interpretation; Parol Evidence. This Agreement represents the entire agreement of the parties with respect to its subject matter, and all previous agreements, whether oral or written, entered into prior to this Agreement are hereby revoked and superseded by this Agreement. No representations, warranties, inducements or oral agreements have been made by any of the parties except as expressly set forth herein, or in any other contemporaneous written agreement executed for the purposes of carrying out the provisions of this Agreement. This Agreement shall be construed and interpreted according to its plain meaning, and no presumption shall be deemed to apply in favor of, or against the party drafting the Agreement. The parties acknowledge and agree that each has had the opportunity to seek and utilize legal counsel in the drafting of, review of, and entry into this Agreement.
- **8. Assignment**. No right or interest in this Agreement shall be assigned by the Consultant without prior, written permission of the City and no delegation of any duty of the Consultant shall be made without prior, written permission of the City. Any attempted assignment or delegation by the Consultant in violation of this provision shall be a breach of this Agreement by the Consultant.
- **9. Subcontracts**. No subcontract shall be entered into by the Consultant with any other party to furnish any of the material or services specified herein without the prior written approval of the City. The Consultant is responsible for performance under this Agreement whether or not subcontractors are used.
- 10. Rights and Remedies. No provision in this Agreement shall be construed, expressly or by implication, as waiver by the City of any existing or future right and/or remedy available by law in the event of any claim of default or breach of this Agreement. The failure of the City to insist upon the strict performance of any term or condition of this Agreement or to exercise or delay the exercise of any right or remedy provided in this Agreement, or by law, or the City's acceptance of and payment for services, shall not release the Consultant from any responsibilities or obligations imposed by this Agreement or by law, and shall not be deemed a waiver of any right of the City to insist upon the strict performance of this Agreement.
- 11. Attorneys' Fees. In the event either party brings any action for any relief, declaratory or otherwise, arising out of this Agreement or on account of any breach or default hereof, the prevailing party shall be entitled to receive from the other party reasonable attorneys' fees and reasonable costs and expenses, determined by the court sitting without a jury, which shall be deemed to have accrued on the commencement of such action and shall be enforced whether or not such action is prosecuted through judgment.
- **12. Liens**. All materials or services shall be free of all liens and, if the City requests, a formal release of all liens shall be delivered to the City.
- 13. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

Contractor:	City of Cottonwood (Owner)
c/o	c/o

or at such other address, and to the attention of such other person or officer, as any party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (i) when delivered to the party, (ii) three (3) business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a party shall mean and refer to the date on which the party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

- 14. Confidentiality of Records. The Consultant shall establish and maintain procedures and controls that are acceptable to the City for the purpose of ensuring that information contained in its records or obtained from the City or from others in carrying out its obligations under this Agreement shall not be used or disclosed by it, its agents, officers, or employees, except as required to perform the Consultant's duties under this Agreement. Persons requesting such information should be referred to the City. The Consultant also agrees that any information pertaining to individual persons shall not be divulged other than to employees, agents or officers of the Consultant as needed for the performance of duties under this Agreement.
- 15. **Public Records.** Notwithstanding any provisions of this Agreement regarding confidentiality, secrets, or protected rights, the Consultant acknowledges that all documents provided to the City may be subject to disclosure by laws related to open public records. Consequently, the Consultant understands that disclosure of some or all of the items subject to this Agreement may be required by law. In the event City receives a request for disclosure that is reasonably calculated to incorporate information that might be considered confidential by Consultant, the City agrees to provide the Consultant with notice of that request, which shall be deemed given when deposited by the City with the USPS for regular delivery to the address of the Consultant specified in 9.13. Within ten (10) days of City notice by the City, the Consultant will inform the City in writing of any objection by the Consultant to the disclosure of the requested information. Failure by the Consultant to object timely shall be deemed to waive any objection and any remedy against the City for disclosure. In the event the Consultant objects to disclosure within the time specified, the Consultant agrees to handle all aspects related to the request, including properly communicating with the requestor and timely responding with information the disclosure of which the Consultant does not object thereto. Furthermore, the Consultant agrees to indemnify and hold harmless the City from any claims, actions, lawsuits, or any other controversy or remedy, in whatever form, that arises from the failure to comply with the request for information and the laws pertaining to public records, including defending the City in any legal action and payment of any penalties or judgments. This provision shall survive the termination of this Agreement.
- **16. Conflicting Terms.** In the event of a conflict between the Exhibit and this Agreement, the terms of this Agreement shall govern.
- 17. Compliance with Federal Immigration Laws and Regulations. Consultant warrants that it complies with all Federal Immigration laws and regulations that relate to its employees and complies with A.R.S. § 23-214.A. Consultant acknowledges that pursuant to A.R.S. § 41-4401, a breach of this warranty is a material breach of this contract subject to penalties up to and including termination of this contract, and that the City retains the legal right to inspect the papers of any employee who works on the contract to ensure compliance with this warranty.

Contractor	
Company Name	Printed Name
Signature	Date of Signing
Title	
City of Cottonwood	
Diane Joens, Mayor	Date of Signing
Attest:	
Marianne Jimenez, City Clerk	
Approved as to form:	
Steve Horton, City Attorney	

EXHIBIT A SCOPE OF SERVICES

The City of Cottonwood is open to accepting proposals from individuals or firms willing to undertake the tasks outlined below. These tasks are the City's best estimate of needed services and are only used to assist bidders. The City may seek best and final offers from selected bidders once a final scope of services is agreed upon between performing artists and City.

- 1. Availability from September 18th September 19th, to accommodate set-up and take-down of equipment.
- 2. Ability to work long days at Event (early morning through late night).
- 3. Ability to provide the equipment and expertise needed to meet the requirements of our headline acts and other artists.
- 4. Enough personnel to oversee sound and lighting requirements, or willingness to work with volunteers with knowledge of equipment.
- 5. Willingness to work with stage manager and back stage volunteers.
- 6. Willingness to work with and accommodate reasonable needs and requests of Event organizers and artists.
- 7. Commitment to providing the highest quality sound and lighting experience, at appropriate levels, for Event organizers, performing artists, and family-oriented audience.

Proposal Submission:

We suggest that the 2015 Thunder Valley Rally Production proposal include the following:

- 1. Three references from clients/employers involved in music presentation, sound and lighting.
- 2. The total cost of providing services for the event including set-up and take-down.
- 3. An outline of any proposed travel costs, accommodation or meals required.
- 4. The strategy of the consultant to ensure the highest quality sound and lighting experience for the event.
- 5. Any conflicts the firm/individual may have with current or past clients who may be involved in the Event.
- 6. Evidence of all required insurances and coverage if applicable.
- 7. The successful bidder agrees that all communication will be with the City of Cottonwood Event organizers and not the performing artists. All equipment changes must be approved by the City of Cottonwood Event organizers.
- 8. The successful bidder will supply an adequate number of technicians to run the sound board, monitors, backline and lights.

Sound System:

In view of the primary importance of the sound quality to the headlining artists' performance, the Vendor agrees to furnish a complete up-to-date, state of the art sound reinforcement system. This sound system should produce full frequency response distributed evenly across the audio spectrum (20Hz to 20,000Hz). Sound system is to deliver sound evenly across entire audience and shall meet the quality required for headlining performers.

The entire sound system is to be in good working condition and include all motors, rigging, appropriate cable, safety systems, accessories, and ample spares. Said sound system is to be tested and working 100% prior to artists arrival. Vendor shall provide a professional quality sound system consisting of no less than a 4 way Stereo speaker system. (Clair Brothers I-5, L-Acoustics K-1, D&B J Series, JBL Vertec 4889, EAW KF760). Sound system should have adequate power capable of delivering at least 125 db of continuous sound at FOH Mix position, free of hums and noise, tested with lighting up and turned on.

Stage & Lighting:

- A sturdy and sound, professional stage provided by a reputable staging company (i.e. BilJax, Stageright, Accurate Staging, etc.). Staging Company is to provide artists' production manager with an engineer stamped blueprint of the structure indicating certified load ratings, and load bearing points within 60 days of the engagement. The stage required for this event is an SL320 or 550 which measures 48' wide x 48' deep x 5' high as an exclusive performance area. The stage should have a minimum ceiling clearance of 30' from stage deck.
- Production requires three (3) truss positions of no less than forty feet (40') in length for each. Size of the truss should be a minimum of 20.5" x 20.5" medium duty box truss. All trussing should be in good working condition and capable of supporting the weight of lighting equipment provided in lighting plot.

- Artist typically carries a moving light package, consoles, snake, cabling, and distro to integrate into locally provided system. The system traveling with the artist requires 3 1/2T rigging points upstage of the artist's set. Please consult the plots for details.
- The entire lighting system is to be in good working condition and include all motors, rigging, appropriate cable, safety systems, accessories, and ample spares. Lighting system inclusive of Spot Lights and Clearcom should be tested and working at 100% prior to artist's arrival. Please ensure lighting system is gelled prior to artist's load in, and an accurate patch list is provided to artisits LD within 2 hours of load in.
- The provided lighting system must come with two (2) qualified and willing to work employees. Said employees shall be qualified technicians for the repair and maintenance of all lighting equipment.
- Artist's lighting designer requires digital dimmers with enough channels to match the system and patch.

Light Plot Option #1

- 8—VL 2500, VL3K, Martin 700 Profile Fixtures (Rigged on Midstage Truss with Tails Facing Stage Right)
- 3 4 Lamp ACL Bars
- 20—6 lamp par 64 bars with a variety of lamps and gels
- 6 26 degree Source Four Lekos
- 4 8 Lamp "Molefay" Audience Lights
- 2 DF 50 diffusion machines (on dimming channel)

Upstage truss should have narrow bulbs with ceramic turned vertical (up & down). Downstage truss should have medium bulbs with cermaic turned horizontal (side to side).

Lighting Gels: Rosco 22, Rosco 27, Rosco 59, Lee 119, Lee 126 (SPOTS R33, L180)

3—Lycian 1275 Spotlights with R33, L180 and Clearcom

Light Plot Option #2 (Moving Light Plot...Can be hung on 12" Truss)

- 12—VL 2500, VL3k, Martin 700 Profile, Elation Platinum 5R Pro, or Equivalent
- 24—Martin Aura, High End PC Beam, GLP RZ120, or equivalent
- 4 8 Lamp "Molefay" Audience Lights
- 3 Lycian 1275 Spotlights with R33, L180 and Clearcom

Backline requirements for the Event.

Drums, Cymbals, Hardware

- Drum Kit (Yamaha, Maple or Birch Shells)
 - o Two (2) 14" x 6.5 Snare Drums (one wood, one metal)
 - o One (1) 10"x8" Rack Tom
 - o One (1) 12"x10" Rack Tom
 - o One (1) 14"x12" Rack Tom
 - One (1) 16"x16" Rack Tom (not floor mounted)
 - One (1) 24" x 18" Bass Drum (22" is ok)
 - All Toms are to be rack mounted
 - o Remo Powerstroke 3 bass drum head (no black dot)
 - o Remo Clear Emperor Tom Heads
 - o Coated Remo Powerstroke (w/ black dot) Snare Head
- Hardware (Yamaha)
 - O Nine (9) Boom Stands
 - One (1) Double Kick drum pedal
 - One (1) Drum throne
 - One (1) Hi-hat stand
 - One (1) Snare stand
- Cymbals (Zildjian)
 - o Four (4) Medium Thin 18" Zildjian K Crashes
 - o One (1) 16" K Crash
 - o One (1) 17" Brilliant China
 - One (1) Pair 13" Quick Beats Hi-Hat or K Hi-Hat

- o One (1) 22" Dry Ride K
- o One (1) 12" K Splash
- Other
 - o 8'x8'x2' Drum Riser (preferably on wheels), Sandbags, Drum Rug, Drum Keys

SR Guitar Equipment

- Two (2) Marshall JCM-2000 Dual Super Lead 100 watt heads w/ functioning reverb
- Two (2) Stereo Marshall (4x12") cabinet (*straight*)
- Two (2) Roland JC-120 Jazz Chorus w/ functioning reverb
- All footswitches, and necessary cables for above listed

SL Guitar Equipment

- Two (2) Marshall JCM-2000 Dual Super Lead 100 wat heads w/ functioning reverb
- Two (2) Marshall (4x12") cabinet (*straight*)
- Two (2) Vox AC30
- Extra long footswitch cable
- All necessary cables for the above listed equipment

Bass Equipment

- Two (2) Original Ampeg SVT or SVT-VR heads 2 channel, 4 input style
 - Acceptable substitutions: Ampeg Classic or SVT-2 (not solid-state), Agullar 750 or Ashdown (not MAG), One (1) 8x10" Ampeg SVT cabinet
- All necessary cables for above listed equipment

Other

- Two (2) Ultracase GSX-6 guitar boat
- Two (2) Single Ultimate guitar stands
- Assortment of spare 1/4" instrument cables (40', 25', 10', 1' patch cables)
- Assortment of spare loudspeaker cables
- Spare tubes and fuses for amplifiers listed above

City of Cottonwood, Arizona
City Council Agenda Communication



□ Print

Meeting Date: September 1, 2015

Subject: ORDINANCE NUMBER 614 -- AMENDING THE ZONING

MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR 5.78 ACRES, LOCATED AT 840 & 842 S. MAIN STREET, SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES

AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF R-1 (SINGLE FAMILY RESIDENTIAL); R-2 (SINGLE FAMILY/MULTIPLE FAMILY RESIDENTIAL); R-3 (MULTIPLE FAMILY RESIDENTIAL); AND C-1 (LIGHT COMMERCIAL), TO PAD (PLANNED AREA DEVELOPMENT) ZONE; FIRST

READING.

Department: Development Services

From: Scott Ellis, Planner

REQUESTED ACTION

Request to rezone approximately 5.78 acres located west of S. Main Street, and east of S. 16th Street, on 3 parcels at 840 & 842 S. Main Street, from R-1 (Single Family Residential); R-2 (Single Family/Multiple Family Residential); R-3 (Multiple Family Residential) and C-1 (Light Commercial) to PAD (Planned Area Development) Zone, so as to allow development of 43 residential units to the existing development with 31 apartment units.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is: No action required, First Reading.

BACKGROUND

Applicant: Skyline Apartments, LLC and Seabourn, LLC.

Agent: Tom Pender

Location: 840 & 842 S. Main Street. The site sits in between S. Main Street and S. 16th Street.

Requesting a zone change on three (3) parcels, totaling 5.78 acres, from R-1, R-2, R-3, and C-1, to PAD. Convert existing apartments to condominiums and construct 43 new apartments on the vacant portions of the parcels.

Applicant intends to convert existing apartments and develop new units through condominium form of ownership through a separate subdivision process, as permitted by State Statute.

The site consists of three parcels; two contain portions of the existing Skyline Apartments and the other is vacant. Applicant would like to rezone the parcels to PAD, convert the existing apartments to condominiums, and develop the vacant land by building 43 new apartments (with condominium form of ownership) in separate phases as housing demand warrants. The new development will have three models of one and two-story multi-unit residential dwellings, ranging in size from 1,117 sq. ft. to 1,400 sq. ft. with a year-round outdoor community use area.

This project was originally submitted and reviewed by the Planning & Zoning Commission in October 2013. Neighboring property owners throughout the Crestview Subdivision submitted a written protest and petitions to the Planning & Zoning Commission regarding the proposed rezone. The biggest concerns raised by neighbors were increased traffic, visibility, and property value impacts. The Commission also had concerns regarding the project timeline, the intent of the property owners obtaining a zone change and selling the property, and asked the applicant to work with neighboring developments to ensure any new structures fit well within the surrounding area.

The applicant was able to meet with the neighboring Crestview HOA to reach mutual agreements on placement of the two-story units and modifying roofing materials and colors. Please see the attached submittals showing these changes.

On May 18, 2015, the Planning & Zoning Commission recommended approval for the rezone request to the City Council.

JUSTIFICATION/BENEFITS/ISSUES

Planning and Zoning Recommended Conditions:

- 1. All future plat maps, construction plans, and design review come back to the Planning & Zoning Commission for approval.
- 2. That the project be developed and maintained in accordance with the Master Development Plan dated September 2013, with site modifications submitted May 2015, and as may be further modified by the Commission and/or Council.
- 3. That construction permits to begin developing the site are applied for no later than two years from the effective date of this ordinance. If at the expiration of this period the owner has not applied for construction permits for the use for which it has been approved, the zoning shall revert to its former zoning classifications without further legislative action.

Legal Protest:

Where 20% or more of adjacent property owners submit a written protest against a change of zoning, State Statute and City Ordinance require a 3/4 (6 out of 7) approval by the City Council. Article III, Section 301.F.2 of the City of Cottonwood Zoning Ordinance states:

If the owners of twenty (20) percent or more, either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear or any side thereof extending on hundred and fifty (150) feet therefrom or, of those directly opposite thereto of the opposite lots, file a protest in writing against a proposed amendment, it shall not become effective except by the favorable vote of three fourths (3/4) of all members of the Council. If any members of the Council are unable to vote on such a question because of a

conflict of interest, then the required number of votes for passage of the question shall be three fourths (3/4) of the remaining membership of the Council, providing that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body.

In this case, it has been determined that 20% of the property owners who filed a protest or petition met the above guidelines. Accordingly, this will require a 3/4 (6 of 7) vote of all council members to approve this project.

COST/FUNDING SOURCE

N/A

ATTACHMENTS:		
Name:	Description:	Type:
ORD614.doc	Ordinance 614	Cover Memo
□ Protest-reduced.pdf	Protests	Cover Memo
☐ Staff_Report-Skyline-2.docx	Skyline P&Z Staff Report	Cover Memo
Skyline Condos MDP part 1.pdf	Skyline MDP -1	Cover Memo
Skyline Condos MDP- 2 part 2.pdf	Skyline MDP - 2	Cover Memo
Skyline_Condos_MDP_part_3.pdf	Skyline MDP - 3	Cover Memo
Skyline Condos MDP Part 4.pdf	Skyline MDP - 4	Cover Memo

ORDINANCE NUMBER 614

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR PARCELS OF LAND TOTALING APPROXIMATELY 5.78 ACRES, LOCATED AT 840 SOUTH MAIN STREET (APN 406-04-040,) 842 SOUTH MAIN STREET (APN 406-06-364G, SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF R-3 (MULTIPLE FAMILY RESIDENTIAL,) R-2 (SINGLE FAMILY/MULTIPLE FAMILY RESIDENTIAL,) R-1 (SINGLE FAMILY RESIDENTIAL,) AND C-1 (LIGHT COMMERCIAL,) TO PAD (PLANNED AREA DEVELOPMENT.)

WHEREAS, the Planning & Zoning Commission held a public hearing on May 18, 2015, concerning the rezoning of property owned by Skyline Drive Apartments LLC & Seabourn LLC, and has recommended approval of this request; and

WHEREAS, the requirements of A.R.S. § 9-462.04 have been met.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

<u>Section 1:</u> That the following described parcels of land, APN 406-04-040, 406-06-029M, and 406-06-364G, lying within the City of Cottonwood, Yavapai County, Arizona, shall be and are hereby reclassified from R-3 (Multiple Family Residential,) R-2 (Single Family/Multiple Family Residential,) R-1 (Single Family Residential,) and C-1 (Light Commercial,) to PAD (Planned Area Development,) subject to the applicant's compliance with the conditions and stipulations set forth below under Section 2.

Legal Descriptions

APN 406-04-040

PARCEL I:

A parcel of land located in the Northwest quarter of the Southwest quarter of Section 2, Township 15 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

Ordinance Number 614 Page 2

COMMENCING at the West one quarter of said Section 2; thence South 00 degrees, 02 minutes, 02 seconds West (South 00 degrees, 02 minutes East, record) along the West line of said Northwest quarter, Southwest quarter, a distance of 39.40 feet to the TRUE POINT OF BEGINNING; thence South 89 degrees, 36 minutes, 49 seconds East (South 89 degrees, 30 minutes East, record) a distance of 239.53 feet (240.0 feet, record); thence South 00 degrees, 02 minutes West (South 00 degrees, 02 minutes East, record) a distance of 375.90 feet; thence North 72 degrees, 26 minutes West, a distance of 251.20 feet to a point on the West line of said Northwest quarter, Southwest quarter; thence North 00 degrees, 02 minutes, 02 seconds East, a distance of 301.70 feet to the TRUE POINT OF BEGINNING.

APN 406-06-029M

PARCEL II:

A portion of the East half of Section 3, Township 15 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, described as follows:

COMMENCING at the East quarter corner of said Section 3; thence South 00 degrees, 02 minutes, 02 seconds, West, along the East line of said Section 3, a distance of 39.40 feet to the TRUE POINT OF BEGINNING;

Thence continuing South 00 degrees, 02 minutes, 02 seconds, West, a distance of 378.56 feet; thence North 89 degrees, 42 minutes, 54 seconds, West, a distance of 291.82 feet; thence North 00 degrees, 46 minutes, 08 seconds, West, a distance of 378.84 feet; thence South 89 degrees, 40 minutes, 22 seconds, East, a distance of 297.13 feet to the TRUE POINT OF BEGINNING.

APN 406-06-364G

PARCEL III:

A parcel of land located in the East Half of Section 3, Township 15 North, Range 3 East of the Gila and Salt River Base and Meridian, Yavapai County, Arizona, being more particularly described as follows:

COMMENCING at the East Quarter corner of said Section 3; thence South 00 degrees, 02 minutes, 02 seconds West, a distance of 417.96 feet; thence North 89 degrees, 42 minutes, 54 seconds West, a distance of 291.82 feet to the POINT OF BEGINNING; thence continuing North 89 degrees, 42 minutes, 54 seconds West, a distance of 60.12

Ordinance Number 614 Page 3

feet to a point on a non-tangent curve; thence Northwesterly along said curve concave to the Southwest having a radius of 300.00 feet, an arc length of 160.33 feet, a central angle of 30 degrees, 37 minutes, 14 seconds and a radial bearing of North 89 degrees, 31 minutes, 43 seconds West; thence North 31 degrees, 56 minutes, 00 seconds West, a distance of 203.83 feet to a point of curvature; thence Northwesterly along a curve concave to the Southwest having a radius of 350.00 feet, an arc length of 101.51 feet and a central angle of 16 degrees, 37 minutes, 00 seconds; thence North 00 degrees, 46 minutes, 08 seconds West a distance of 14.49 feet; thence South 89 degrees, 40 minutes, 22 seconds East a distance of 266.48 feet; thence South 00 degrees, 46 minutes, 08 seconds East a distance of 418.25 feet to the POINT OF BEGINNING.

- <u>Section 2:</u> That the Planning and Zoning Commission and City Council have determined the following items necessary as conditions of the zoning approval to protect the public health, safety and general welfare:
 - 1. All future site plans/maps, construction plans, and design review come back to the Planning & Zoning Commission for approval.
 - 2. That the project be developed and maintained in accordance with the Master Development Plan dated September 2013, with site modifications submitted May 2015 and as may be further modified by the Commission and/or Council.
 - 3. That construction permits to begin developing the site are applied for no later than two years from the effective date of this ordinance. If at the expiration of this period the owner has not applied for construction permits for the use for which it has been approved, it shall revert to its former zoning classification without legislative action.
- <u>Section 3:</u> The zoning map shall be amended to reflect this zone change only upon compliance with all zoning conditions set forth herein.
- <u>Section 4:</u> That at least three (3) copies of the zoning map of the City of Cottonwood, Arizona, as hereby amended be kept in the office of the City Clerk for public use and inspection.
- <u>Section 5:</u> Severability: That if any section, subsection, sentence, clause, phrase or portion of this ordinance adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions thereof.

Ordinance Number 614 Page 4

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, THIS _____ DAY OF SEPTEMBER 2015

SEPTEMBER 2015.	
	Diane Joens, Mayor
APPROVED AS TO FORM:	ATTEST:
Steve Horton, Esq. City Attorney	Marianne Jiménez, City Clerk

Protest Letter

Against The
Skyline Condominiums &
Casa Verde Consulting Re-ZONE Application CRV #12-028
Master Development Plan – 43 Condominiums
Located off of 16th St. adjacent to Crestview & Skyline

Oct. 21, 2013

Dear Cottonwood City Zoning Commissioners,

We own property within 300 Ft. of the subject property know as Skyline Drive Apartments. This letter represents our written **PROTEST** against the Skyline Condominiums Master Development Plan request as proposed to the City of Cottonwood. Traffic is our main concern as the new developments access to 12th St. will be via 16th St. and Crestview; To Main St. will be via 16th St. to Elm or Skyline Dr. It is our opinion that the requested number of residential units by Skyline Condominiums project far exceed the nor for the neighborhood. It is our request that you do not change the existing zoning on the parcels involved. We purchased our property knowing this adjacent R-1 land was zoned low density residential. Our serious concerns are the additional traffic this development will create, noise, public safety and our property values. Please review the attached Traffic study conducted on our behalf by Van McDonald. Also attached you will find Protest letters from over 40 of our closest neighbors.

Thank you, Phil & Marciana Moyer 1640 Crestview Circle Cottonwood, AZ. 86326

> Post Office Box 1777 Cottonwood Arizona 86326

Cell: 928-300-4919 Fax: 928-634-6790 philm@cwbanker.com



SKYLINE CONDOMINIUMS
PRELIMINARY SITE PLAN



October 16, 2013

Phil and Marci Moyer
1640 Crestview Circle
Cottonwood, AZ 86326
RE: Skyline Condominiums
(CRB 13-015 Expansion of
Skyline Apartments/Condos)

Dear Phil and Marci,

The rather extensive and comprehensive project description is available from the City of Cottonwood Community Development Department, Located at 111 North Main Street (Phone 928-634-5505 x 3321). I am advised that your family as well as others in your vicinity, some actually bordering the proposed development did not receive notice of any hearings held or that would be held as required by the city code.

I am also advised that you learned of the upcoming hearing scheduled for October 21, 2013 by reading the sign located as shown on the attached map (A) just days prior to the scheduled meeting on October 21, 2013. I noted that the sign mentioned above is located near the northwest corner of the proposed presently vacant portion of the project, which is adjacent to a portion of 16th Street seldom (if ever) traveled by you or the community south of the project area. The street circulation extends as either dead end, private, or circuitous meanderings, and is inadequate and fails to provide convenient access to other portions of the city, even though in near proximity.

Families (people) presently living in the project's existing abodes are assumed to have agreed to the changes anticipated or have entered into lease or purchase contracts rendering them subject to this or similar development changes.

Existing land use appears to consist of a series of apartments or multi-family and commercial areas. These are situated in close proximity to very substantial homes (buildings). At the general area's north boundary there is a parking area for the existing apartments which is separate from a shopping area that does not provide direct access for the residents.

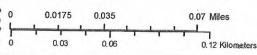
The zoning adjacent and north of your home and that of our neighbors, is zoned R-1 (Parcel 406-06-029M). This zoning is the same as that of the use (PAD) of those several parcels on your street.

Any effective solution to the existing horrific traffic circulation has obviously not been addressed in the development that has taken place in the past. The only ways that have the slightest potential as serving as an arterial street is State Highway 260 and State Highway 89A.

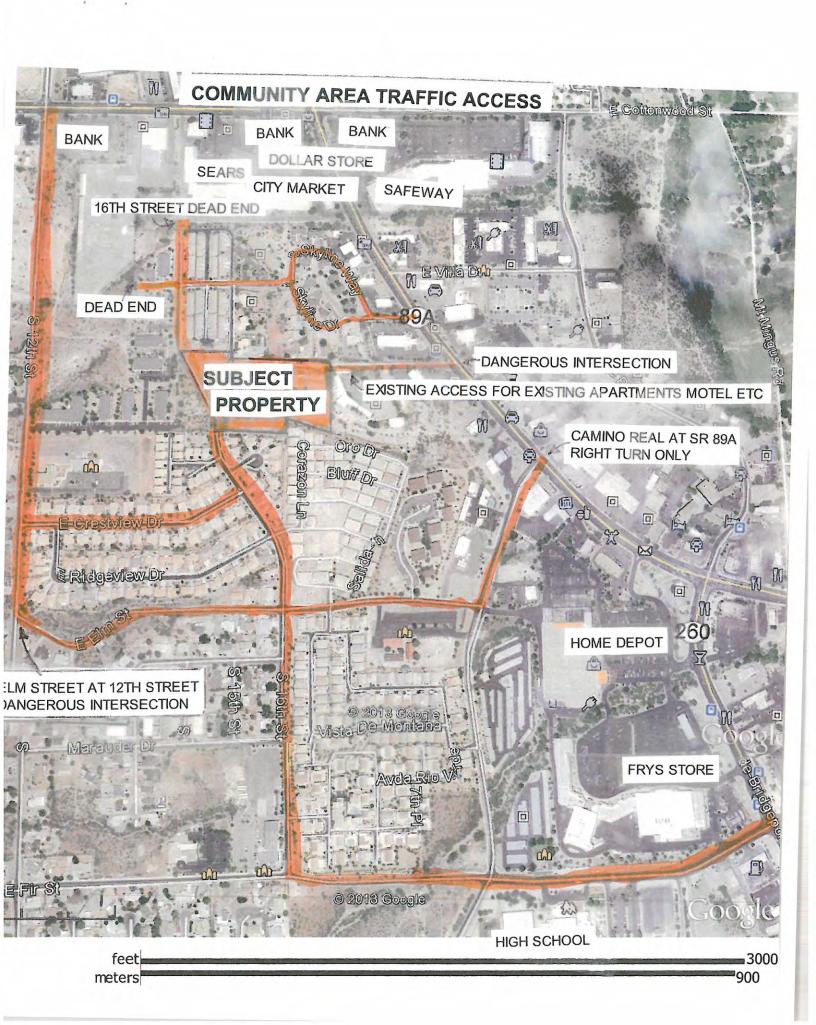
16th Street dead ends to the north. Access to Highway 260 is virtually non-existent except by traversing other high density and low density developments for some distance on 16th Street to



Map and parcel information is believed to be accurate but accuracy is not guaranteed. No portion of the information should be considered to be, or used as, a legal document. The information is provided subject to the express condition that the user knowingly waives any and all claims for damages against Yavapai County that may arise from the use of this data.







a "right turn only" intersection Camino Real at 260 or a distance farther to Fir Street and then to Fir at 260 passing by Mingus Union High School. Access to 89A is (as requested by sign) is south to Elm, then north to 89A on 12th Street some considerable distance.

I trust that "at least some" traffic mitigation will be a part of this proposed development regarding not only the additional traffic generated by the proposed additional units but the totally inadequate circulation situation that exists today. Traffic consultants are professionals with whom I have worked on a continuing basis in my capacity with cities ranging in size from that of Cottonwood to Tempe and the environs of Phoenix as well as on a companion project basis on cities the ilk of Los Angeles.

I have often addressed problems regarding traffic that defy solution, short of major and costly mitigation. The point intended here, is these difficult situations came into being by the systematic addition to development areas which over time, have not provided (planned) for the ultimate loads of the transportation system. This area is at a point in time where the traffic problem, if not properly addressed, will guarantee serous and expensive mediation.

You will be interested to notice that your R-1 Zoning has similar setback and height requirements as R-2. The "general plan" appears to anticipate and condone "High Density Residential" for the undeveloped area adjacent to the occupied R-1 on which your home (and others) lies.

Any general plan, to be of any future beneficial effect, must address the dictates of the automobile. Along with that consideration, is the more important dictate of being the necessary, but often overlooked, service to people. Currently I have observed children gathering from the abodes of this area on their walk to school (or to school bus pick up areas) along streets without sidewalks and in the entire area without any paths or ways designed for people.

The present residents of the existing high density areas which are adjacent to commercial uses, find when they step from their doors that they are faced with "tunnels" of walls, narrow automobile access ways, leading onto or through parking areas, and there is a noticeable lack of sidewalks, park areas, pedestrian circulation facilities, or any other items of interest or convenience.

I would like to make some constructive comments to the developer's consultants that may be of economic good to the project, provide part of a solution to the major problems and assist in creating a project to be proud of.

The requirements for this type of development along with my comments are as follows:

Portions of the "Revised zoning code (attached) are underlined by the author, with comments on each item.

Notice pages 34, 35

Notice was not known to a number of near property owners.

Commission Action, page 36

Commission may amend or quash or approve with conditions.

Council Action, page 37

If 20 percent, or more (F, 2 page 37) file a protest <u>in writing</u> against, it shall require ³/₄ of the council to approve. The council, in order to approve is required to follow the law of their ordinances.

The council may require dedications of streets & easements.

Other requirements exist. See all of ordinances.

Money continues to be the underlying factor to all that is considered by the citizenry, including those of us who are our elected representatives. "Adequate" funding must be considered not only for the initial cost of construction but for the "never ending" cost of maintenance of infrastructure that is inherited by towns, cities, and counties, this eventually requires replacement and/or expansion to provide for added growth needs. The federal government, through the states and other "Children of the Federal", often funds improvements and replacements thereof by "printing" money with no basis of value (except the adding of additional debt to us as taxpayers). Developers participate in this process by (usually) borrowing amounts from banks, which are in turn funded by the federal government. The cost of maintenance is seldom factored into the equation except from inadequate things like local sales tax, share in "road" taxes (fuel) all of which are overwhelmed by the constant addition of new and replacement infrastructure.

What city councils do is very much influenced by the above listed factors (and similar).

Successful developers are more aware of these (and more) factors that dictate their planning. Please review the attached reports by others, which your consultant embraces (for the most part) as factual.

My clientele, starting some 15+ years ago has been made up more and more by individuals that were losing their retirement by the devaluation of the dollar and/or by such things as cities, counties, and states going broke, if not often actually bankrupt. The feds themselves are fraudulently stealing retirement accounts. Wise people are converting such accounts into their own businesses or investing in land or things they can hold in their hands. Any city, even though not wise demonstrated by their "Chase of the Dollar" still is very much by a "dirth" in the value of the dollar.

Presently "Skyline Dr. Apt." apparently have a single easement access to SR 89A through "View Motel" (Verde Valley Dev. Co.)

Current owner(s) of the project property (of record) "Skyline Dr. Apt. LLC" & Seabourn LLC

Conversion of apartments to condominiums requires a complex series of changes, not only that which zoning may require but building & fire codes.

Open space (whatever that can mean) is listed on the plans as ultimately covering 38% of the project area. Parking is apparently not included.

From the plan documents, the total area of "Livable" space the project anticipates is 57,000 sq. ft., not counting the existing "Skyline Apartments".

This project is of great importance to the community, the community being an area far greater in area than the project area – plus the area 300 feet from its perimeter.

The city of Cottonwood would benefit greatly from the developer and the people of cottonwood working together.

This will take a bit more time.

The street intersections at 12t Street @ Elm, East Skyline Drive @ Highway 89A, and the View Motel @ Highway 89A are dangerous intersections.

See AASHTO policy on geometrical design and "Street Planning and Design Guidelines, City of Phoenix" (Attached pages 9-2, 12-17)

In particular, those streets entering a major connector or Highway such as 89A, should not vary from ninety degrees by more than fifteen degrees.

These named locations above vary from 30 degrees to 50 degrees.

Each also fail to provide any perpendicular storage for vehicles attempting the turn.

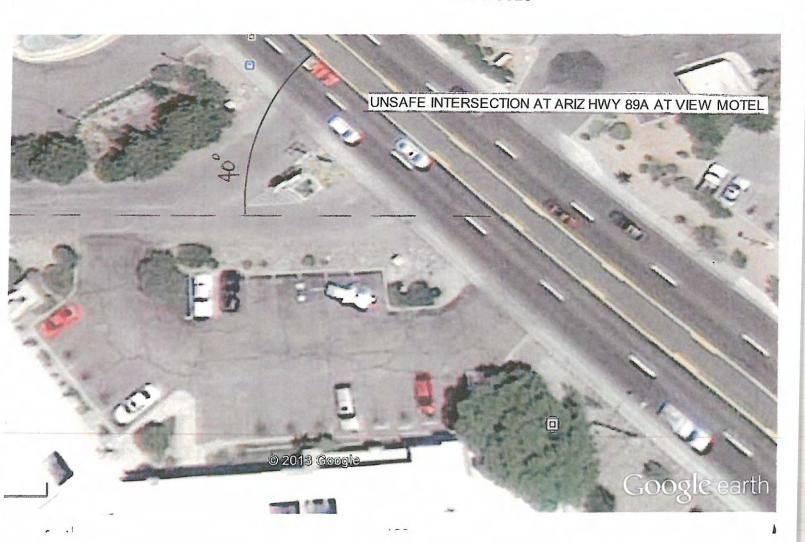
A "GENERAL PLAN" HAS NO SUBSTANCE OR VALIDITY WITHOUT PROVIDING FOR THE IMPACT OF IT'S BEING INVOKED REGARDING TRAFFIC, WATER SERVICE, WASTE WATER TREATMENT, PUBLIC SAFETY, AND A VIABLE PEOPLE ENVIRONMENT.



INTERSECTION, HWY 89A @ VIEW MOTEL AND EAST SKYLINE DR E VIII a Dr C 100 ad enilys E SUPER 8 MOTEL feet meters Joogle earth 33 **OFFICES** VIEW MOTEL



INTERSECTION WITH SEVERAL SAFETY ISSUES





Street Planning And Design Guidelines

December 1, 2009

Maintained by:
Design Section
Planning, Design, and Programming Division
Street Transportation Department

THE REQUIREMENTS LISTED IN THESE EXCERPTS FROM THE CITY OF PHOENIX GUIDELINE DOCUMENT ARE THOSE BEING IMPORTANT SAFETY REGULATIONS AS FORMULATED BY THE AASHTO POLICY ON GEOMETRICAL DESIGN CHAPTER. 9

9.4 Stubs For Street Extension

Stubs for street extension are required where a street connection is necessary to serve adjacent properties that may develop at a future date. When a dead-end street is required and it serves more than four lots, a temporary cul-de-sac with a 45' radius should be provided.

9.5 Knuckles

Knuckles are areas on the roadway expanded to provide a turn-around and additional access or lot frontage on residential collector and local streets. Knuckles are required at intersections where each street extends in only one direction from the intersection.

Radii for knuckles are shown in COP Design Standards Guideline DG1006.

Sidewalk ramps are not required however, if they are provided they should be in accordance with Standard Detail P1242. Ramps should be provided if there are amenities on either side of the "elbow".

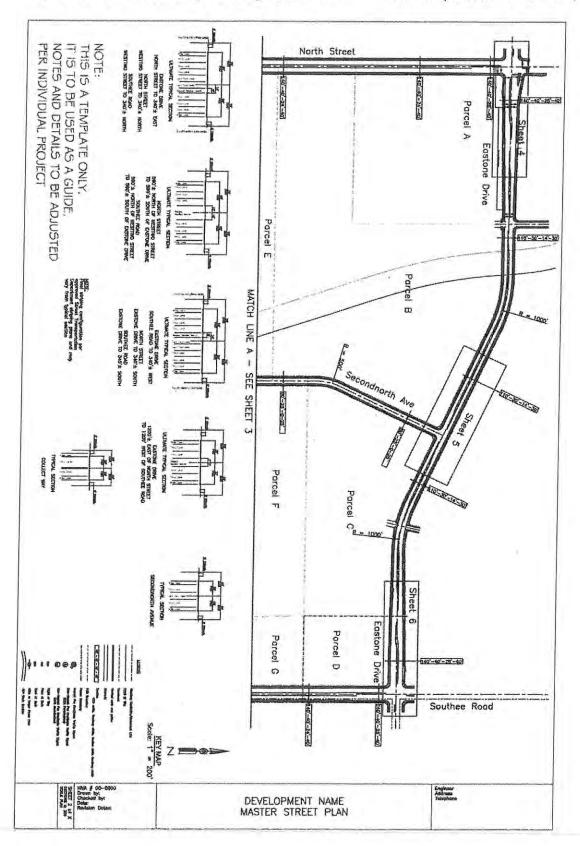
9.6 Eyebrows

Eyebrows are permitted between intersections to improve accessibility to oddshaped sites. The design of a Eyebrow should be in accordance with plans approved by the City Of Phoenix Development Services Department.

9.7 Horizontal Alignment

- 1. When tangent centerlines deflect from one and other more than ten degrees and less than seventy-five degrees, or greater than one hundred and five degrees, they shall be connected by a curve with a minimum centerline radius of five hundred feet for collector streets, or one hundred feet for local streets.
- 2. Between reverse curves on arterial and collector streets, there should be a tangent section of centerline not less than one hundred fifty feet long.
- Local and collector streets intersecting an arterial route should do so at a ninety degree angle; intersections of local street should not vary from ninety degrees by more than fifteen degrees.

^{*} See Subdivision Ordinance, Chapter 32 of City Code for additional information.



American Association of State Highway and Transportation Officials

From Wikipedia, the free encyclopedia

The American Association of State Highway and Transportation Officials (AASHTO) is a standards setting body which publishes specifications, test protocols and guidelines which are used in highway design and construction throughout the United States. Despite its name, the association represents not only highways but air, rail, water, and public transportation as well.

The voting membership of AASHTO consists of the Department of Transportation of each state in the United States, as well as that of Puerto Rico and the District of Columbia. The United States Department of Transportation, some U.S. cities, counties and toll-road operators, most Canadian provinces as well as the Hong Kong Highways Department, the Turkish Ministry of Public Works and Settlement and the Nigerian Association of Public Highway and Transportation Officials have non-voting associate memberships.

Contents

- 1 Purpose
- 2 Publications
- 3 See also
- 4 External links

American Association of State Highway and Transportation Officials



Abbreviation AASHTO

Formation December 12, 1914

Type Non-governmental organization

Purpose/focus Coordination among state

Departments of Transportation

Headquarters 444 N Capitol St. NW

Suite 249

Washington, DC 20001

Region served United States

Affiliations 50 state Departments of

Transportation and in District of

Columbia and Puerto Rico

Website http://www.transportation.org

Purpose

The American Association of State Highway Officials (AASHO) was founded on December 12, 1914. Its name was changed to American Association of State Highway and Transportation Officials on November 13, 1973. The name change reflects a broadened scope to cover all modes of transportation, although most of its activities are still specific to highways.

While AASHTO is not a government body, it does possess quasi-governmental powers in the sense that the organizations that supply its members customarily obey most AASHTO decisions.

Publications

Some noteworthy AASHTO publications are:

- A Policy on Geometric Design of Highways and Streets, often called "The Green Book" because of the color of its cover. This book covers the functional design of roads and highways including such things as the layout of intersections, horizontal curves and vertical curves.
- Standard Specifications for Transportation Materials and Methods of Sampling and Testing.
- AASHTO LRFD Bridge Design Specifications. This manual is the base bridge design manual that all DOTs use across the US.

In addition to its publications, AASHTO performs or cooperates in research projects. One such project is the AASHO Road Test, which is a primary source of data used when considering transport policies and the structural design of roads. Much of AASHTO's current research is performed by the National Cooperative Highway Research Program (NCHRP) which is administered by the Transportation Research Board (TRB) of the National Research Council.

The AASHTO Materials Reference Laboratory (http://www.amrl.net/) (AMRL) accredits laboratories. AMRL accreditation is often required to submit test results to State DOTs. For example, a contract for the construction of a highway bridge may require a minimum compressive strength for the concrete used. The contract will specify AASHTO Test Designation T22 "Compressive Strength of Cylindrical Concrete Specimens" as the means of determining compressive strength. The laboratory performing T22 will be required to be accredited by AMRL in that test.

AASHTO coordinates the numbering of Interstate Highways, U.S. Highways and U.S. Bicycle Routes.

The families living in the areas effected by the addition of some 55 plus new families, are concerned that the area, already lacking in a workable street system, will add exponentially to the problems

This preliminary report describes problems in traffic and pedestrian safety sufficient to be considered a failed proposal without a "meeting of the minds" that should result in a community not bitterly separated by a feeling of something being "shoved down their Throat's".

A brief history of my experience is attached. i have been retained to be of service regarding the concerns of Phil and Marci Moyer, the family who's letter of protest is also attached.

PLEASE FEEL FREE TO CONTACT MYSELF OR THE MOYERS WITH YOUR FEELINGS REGARDING THIS IMPORTANT DEVELOPMENT PROPOSAL.

SINCERELY

VAN MC DONALD

PLANNING AND DESIGN ASSOCIATES

- cc . 1. CITY OF COTTONWOOD PLANNER
 - 2. DEVELOPER
 - 3. PROJECT PLANNER, ENGINEER, OR ARCHITECT.

Protest Letter

Against The
Skyline Condominiums &

Casa Verde Consulting Re-ZONE Application CRV #12-028

Master Development Plan – 43 Condominiums

Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at the Council Chambers at 826 N. Main St. in Old Town

Dear Cottonwood City Zoning Commissioners,

We own property within 300 Ft. of the subject property know as Skyline Drive Apartments. This letter represents our written PROTEST against the Skyline Condominiums Master Development Plan request as proposed to the City of Cottonwood. Traffic is our main concern as this developments access to 12th St. will be via 16th St. and Crestview; To Main St. will be via 16th St. to Elm or Skyline Dr. These developers are requesting many more residential units in their rezoning application than the current existing zoning would allow. Please do not change the existing zoning. We purchased our property knowing this adjacent land was zoned low density residential. Our serious concerns are the additional traffic this development will create, noise, public safety and our property values.

Phil & MARCIANA Moyer - 1640 CROSTNEW CRCL, Cotton Wood

Name
Parcel # 406-61-054

Parcel # 406-61-054

PROFESSIONAL HISTORY

VAN McDONALD

vancherrycreek@gmail.com

Phone: 928-567-9141 Cell Phone: 928-821-1095 Fax: 928-567-4387

PROFESSIONAL REGISTRATION:

Land Surveyor - Arizona #5357

Colorado, #9324, California #6273

Planning and Design Associates No. 11627-0

CONSULTING EXPERIENCE:

Owner and manager of Planning and Design Associates Co. since 1972; engaged in planning, engineering, feasibility studies, and reports, survey work, and real estate development.

Planning studies and reports to Corporations and individuals, including feasibility and recommendations. Correlation of engineering and planning reports and submissions for approvals of agencies such as I.C.B.O. and FHA. Initiation and negotiation of professional contracts for various planning, building and construction projects. Preparation of maps and visual aids for presentation of reports and execution of projects with civil engineers, architects, landscape architects, and other professional persons.

MUNICIPAL EXPERIENCE:

- Director of Public Works and Director of Planning for City of Peoria, AZ.
- Projects Director and Engineering Management for North Slope Borough, AK and
- Senior Member of Urban Planning team for Hewitt V. Lounsbury & Associates, Anchorage AK.
- Director of Planning and Deputy City Engineer for the City of Flagstaff, AZ.
- Director of Planning and Deputy City Engineer for the City of Ardmore, OK.
- Office Engineer and Construction Engineer for the City of Tempe, AZ.
- Land Surveyor for the City of Phoenix, AZ.

25 years professional experience on: municipal projects as consultant preliminary studies, planning documents, surveys, design, construction, assessment computations, reports on streets, water lines, sewer lines, irrigation systems, and drainage projects. Right-of-way acquisition, layout and design of subdivisions, planned unit development, plan checking, site layout, planning studies, reports, and presentations to Government groups and the public, real estate investment and development. Extensive experience as an expert witness, code enforcement, draft of planning documents, ordinances, and resolutions.

HIGHWAY AND ROADS:

Road Engineer with the Bureau of Land Management in AZ. Design of access roads in a variety of terrain conditions. Work included preliminary studies, survey, design, contract preparation, layout, construction surveillance and reports. Location Engineer on County Road System for Coconino County, AZ. Location of right-of-way work for turnpike construction. Field design of roads, grading and drainage for private developments.

LAND SURVEYING:

Full and part time since age of 14 for my father, myself and others.

GEODETIC AND PHOTOGRAMMETRIC:

Project Engineer for Jack Ammann Photogrammetric Engineers, San Antonio, TX. Work included job planning, field control, and contract negotiations. Senior surveyor with Pan American World Airways, establishing horizontal and vertical control for high accuracy test equipment for military applications.

EDUCATION:

Attended Phoenix College, Arizona State University, Northern Arizona University, Geology, Engineering, and Surveying

MEMBER OR PAST MEMBER OF:

American Congress on Surveying and Mapping (Fellow)
American Society of Planning Officials
Planning Association of Arizona
National Association of Home Builders
Arizona Water and Pollution Control Association
Flagstaff Area Transportation Study Committee (past Chairman)
Southern Legal Foundation
School Site Selection Committee
Civic Beauty Commission
Historic Sites Committee
United States Army 1952-1954

REPRESENTATIVE PROJECTS:

THE VILLAGES - A 1280 acre development in Anchorage, AK. Land acquisition, land trades with state and private entities, planning and agency approvals, initial improvements, and marketing.

THE METROPOLIS - A multi-tower vertical subdivision in downtown Los Angeles, CA. Project Manager for subdivision mapping of high-rise buildings and Governmental relations.

For many years, I have served as an expert witness on a variety of cases.

Service as a right of way agent for cities, the federal government, corporations and private individuals extended throughout my service history.







REVISED ZONING ORDINANCE of THE CITY OF COTTONWOOD

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ARTICLE III - PROCEDURES

SECTION 301. AMENDMENTS OR ZONE CHANGES.

A. PURPOSE.

The Council may, from time to time as the public necessity, convenience, general welfare and good zoning practice requires, change the district boundaries or amend, change, repeal or supplement the regulations herein established. Such changes or amendments may be initiated by the Council or the Commission on its own motion or by petition of one or more owners of real property within the area proposed to be changed.

B. CITIZEN REVIEW AND PARTICIPATION.

- 1. For all zone change applications, the following citizen review and participation process is required:
 - a. At least 60 days prior to any public hearing, the applicant or an appointed representative shall arrange a meeting with planning staff which identifies development issues as well as arrangements and scheduling for the neighborhood meeting described in subsection b below.
 - b. At least 30 days prior to any public hearing, the applicant or an appointed representative shall conduct a neighborhood meeting designed to inform adjoining residents and property owners about the proposed zone change.
 - c. At least 15 days prior to the scheduled neighborhood meeting, the City shall notify all property owners within 300 feet of the subject site by first class mail. The notification shall include the date, time and place for the neighborhood meeting, as well as a description of the proposed land uses.
- 2. It is the responsibility of the applicant or their representative initiating the zone change to conduct the meeting and provide an opportunity for a question and answer period by the audience. It is also the responsibility of the same to identify a point of contact to the public for follow up questions and comments. A written summary of the meeting, including a list of attendees and the issues and concerns discussed, must be prepared by the applicant and a copy submitted to the Planning Department within 15 days after the neighborhood meeting.

C. PUBLIC HEARINGS REQUIRED.

- 1. The Planning and Zoning Commission shall hold a public hearing on any zoning ordinance. Notice of the time and place of the hearing, including a general explanation of the matter to be considered and general description of the area affected, shall be given at least fifteen (15) days before the hearing in the following manner:
 - a. The notice shall be published at least once in a newspaper of general circulation.

- b. In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted to the planning agency of such governmental unit abutting such land.
- c. In proceedings that are not initiated by the property owner, involving rezoning of land which may change the zoning classification, notice by first class mail shall be sent to each property owner, as shown on the last assessment of the property, of the area to be rezoned and to all property owners, as shown on the last assessment of the property, within three hundred (300) feet of the property to be rezoned.
- d. In proceedings involving one or more of the following proposed changes or related series of changes in the standards governing land uses, notice shall be provided in the manner prescribed by subsection e.
 - (1) A ten percent (10%) or more increase or decrease in the number of square feet or units that may be developed.
 - (2) A ten percent (10%) or more increase or reduction in the allowable height of buildings.
 - (3) An increase or reduction in the allowable number of stories of buildings.
 - (4) A ten percent (10%) or more increase or decrease in setback or open space requirements.
 - (5) An increase or reduction in permitted uses.
- e. In proceedings governed by subsection d of this section, the City shall provide notice to real property owners pursuant to at least one of the following notification procedures:
 - (1) Notice shall be sent by first class mail to each real property owner, as shown on the last assessment, whose real property is directly governed by the changes.
 - (2) If the City issues utility bills or other mass mailings that periodically include notices or other informational or advertising materials, the City shall include notice of such changes with such utility bills or other mailings.
 - (3) The City shall publish such changes prior to the first hearing on such changes in a newspaper of general circulation. The changes shall be published in a "display ad" covering not less than one-eighth (1/8) of a full page.
- f. If notice is provided pursuant to subsection e (2) or (3) above, the <u>City shall also</u> send notice by first class mail to persons who register their names and addresses with the City as being interested in receiving such notice.

- f. Payment of a filing fee in an amount established by a schedule adopted by resolution of the Council and filed in the offices of the City Clerk. No part of the filing fee shall be returnable. Payment of filing fee shall be waived when the change or amendment is initiated by the Council or the Commission or when the petitioner is the City, County, State or Federal Government.
- 2. Upon receipt of a complete application for amendment, the Zoning Administrator shall forward the application to the Planning and Zoning Commission.
- 3. Any plan approved by the Zoning Administrator under the provisions of Section 303 must substantially conform to the Tentative Development Plan submitted as part of the petition for a change of district boundaries.

E. COMMISSION ACTION.

- 1. Upon receipt of any complete application for amendment, the Commission shall fix a reasonable time for the hearing of the proposed zone change, amendment or addition and shall give notice thereof to interested parties and to the public in the time and manner provided for as specified in Subsection C. and by posting the area included in the proposed change, not less than fifteen (15) days prior to the hearing. It shall be the responsibility of the applicant to maintain the posting. The notice shall set forth the time and place of the hearing including a general explanation of the matter to be considered and including a general description of the area affected. The Commission may for any reason, when it deems such action necessary or desirable, continue such hearing to a time and place certain. Within thirty (30) days after the close of the hearing, the Commission shall render its decision in the form of a written recommendation to the Council. The recommendation shall include the reasons for the recommendation.
- 2. Prior to publishing a petitioned Zoning Map change, the Commission may, on its own motion, delimit or extend the boundaries of such area, so as to constitute a more reasonable zone district boundary.
- 3. The Commission may, on its own motion, propose any amendments to this Ordinance and map. After holding a public hearing as required by this Section, the Commission shall either:
 - a. Transmit such proposal to the Council which shall thereupon proceed as set forth herein for any other amendment or;
 - b. Vote to quash the Commission initiated proposal, in which case no further action need be taken by the Commission or Council.
- 4. The Commission may recommend to the Council that a time limit be established for the development of the proposal for which a rezoning is conditionally approved.

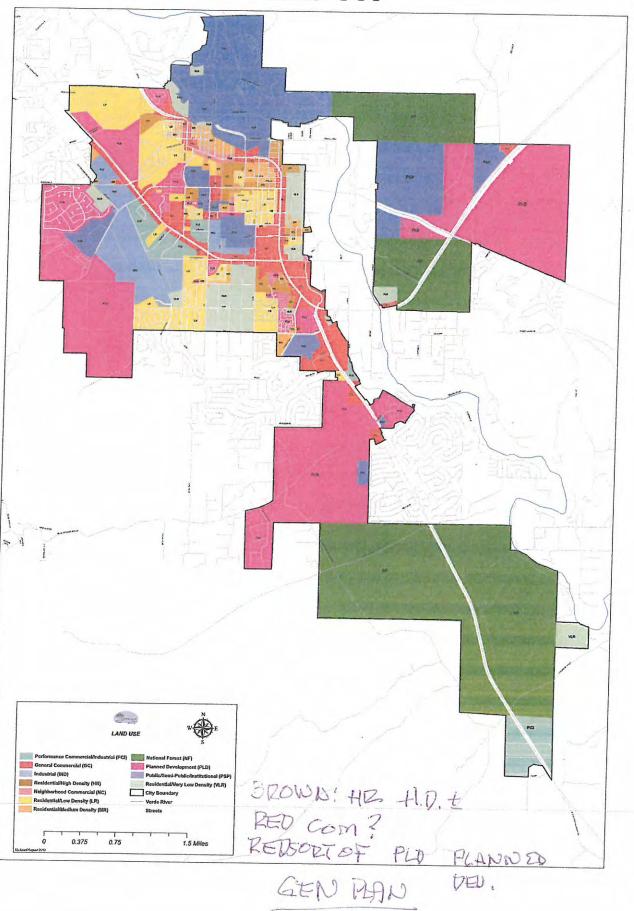
F. COUNCIL ACTION.

- 1. Once the Commission has held a public hearing, the Council may adopt the recommendations of the Commission without holding a public hearing if there is no objection, request for public hearing or other protest. The Council shall hold a public hearing if requested by the party aggrieved or any member of the public or of the governing body. Notice of the time and place of the hearing shall be given in the time and manner provided for the Commission as specified in Subsection C. In addition, the City may give notice of the hearing in such other manner as it may deem necessary or desirable.
- 2. If the owners of twenty (20) percent or more, either of the area of the lots included in a proposed change, or of those immediately adjacent in the rear or any side thereof extending one hundred and fifty (150) feet therefrom or, of those directly opposite thereto of the opposite lots, file a protest in writing against a proposed amendment, it shall not become effective except by the favorable vote of three fourths (3/4) of all members of the Council. If any members of the Council are unable to vote on such a question because of a conflict of interest, then the required number of votes for passage of the question shall be three fourths (3/4) of the remaining membership of the Council, providing that such required number of votes shall in no event be less than a majority of the full membership of the legally established governing body.
- 3. The Council shall not make any changes in any proposal recommended by the Commission until the proposed changes have been referred back to the Commission for a report. Failure of the Commission to file a report back to the Council within thirty (30) days from date of receipt of the recommended changes shall be deemed to be the approval of the proposed change(s) as recommended by the Council.
- 4. At the time of rezoning, the Council may establish a schedule for development of the specific use or uses for which rezoning is requested. If at the expiration of this period the property has not been improved for the use for which it was conditionally approved, it shall revert to its former zoning classification without legislative action.
- 5. The Council may require the dedication of streets and utility easements as a condition of rezoning.

G. RECONSIDERATION OF DENIED AMENDMENTS.

In the event that a petition for an amendment is denied by the Council, or is withdrawn after the Commission hearing, the Commission shall not consider the petition or any other petition for the same amendment of this Ordinance as it applies to the same property described in the original petition, or any part thereof, within a period on one (1) year from the date of such denial action, unless the conditions upon which the original denial was based have changed.

Land Use



October 15, 2013

Re: Protest Letter to the Skyline Condominiums & Casa Verde Consulting - CRV #12-028 Master Development Plan - 43 More Condos Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at Council Chambers at 826 N. Main St. in Old Town Dear Neighbors,

Neighborhood Impact:

- * Traffic & Nolse
- * Public Safety

This letter represents our protest against the Skyline Condominiums Master Development Plan as proposed. Traffic is our main concern as their access to 12th St. will be via 16th St. and Crestview and to Main St. will be via 16th St to Elm or Skyline Drive. They are requesting many more residential units than the current zoning allows.

Marciana and I just found out about this last week when the developers sign went up on the property. We and most of our closest neighbors never received any notice or invitation to the developers August public hearings on the matter.

As you can see we are in dire need of your help and opinions on this matter. Most importantly we need you to PROTEST IN WRITING * OR come to the meeting if you are concerned, or both. Please accept my assistance in delivering your PROTEST LETTER to the meeting next Monday Oct. 21, 2013 by signing below & return to me A.S.A.P.

Please call me if I can answer any questions. Thank Youl Best regards, Phil & Marciana Moyer Cell# 928-300-4919 1640 Crestview Circle

October 17, 2013

Dear Cottonwood Zoning Commissioners, This letter is my written Protest in opposition to the Skyline Condos PAD as proposed in the zoning change application CRV #12-028.

DAVID J. ADALR 1650

Signature

*** FOLD - TAPE 3 SIDES & RETURN

No PREVIOUS NOTICE OR

PUBLIC HEARING RECEIVED.

PAL 10/19/13

Phil Moyer Post Office Box 1777

Cottonwood

Arizona

Cell: 928-300-4919 Fax: 928-634-6790 philm@cwbanker.com

October 15, 2013

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Signature

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

NO PREVIOUS NOTICE OF PUBLIC HEARING PECEIVED. DM 10/19/13

Cottonwood Arizona 86326

Cell: 928-300-4919 Fax: 928-634-6790 philm@cwbanker.com

October 15-2

October 15, 2013

Re: Protest Letter to the
Skyline Condominiums &
Casa Verde Consulting – CRV #12-028
Master Development Plan – 43 More Condos
Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at Council Chambers at 826 N. Main St. in Old Town

Neighborhood Impact:

- * Traffic & Noise
- * Public Safety

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October 17, 2013

Dear Cottonwood Zoning Commissioners,

PUBLIC HEARING

This letter is my written Protest in opposition to the Skyline Condos PAD as proposed in the zoning change application CRV #12-028.

Name Name

Addross

Cianatura

MENDY

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

Cottonwood

Arizona

86326

Cell: 928-300-4919

Fax: 928-634-6790 philm@cwbanker.com

WA 19/13

October 15, 2013

Re: Protest Letter to the Skyline Condominiums & Casa Verde Consulting - CRV #12-028 Master Development Plan - 43 More Condos Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at Council Chambers at 826 N. Main St. in Old Town Dear Neighbors,

Neighborhood Impact:

- * Traffic & Noise
- * Public Safety

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Please call me if I can answer any questions. Thank You! Best regards, Phil & Marciana Moyer Cell# 928-300-4919 1640 Crestview Circle

October 17, 2013

Dear Cottonwood Zoning Commissioners, This letter is my written Protest in opposition to the Skyline Condos PAD as proposed in the zoning change application CRV #12-028.

*** FOLD - TAPE 3 SIDES & RETURN

No PREVIOUS NOTICE OF PUBLIC HEARING RECEIVED.

Phil Moyer Post Office Box 1777

> Cottonwood Arizona

Cell: 928-300-4919 Fax: 928-634-6790

philm@cwbanker.com

Protest Letter

Against The
Skyline Condominiums &
Casa Verde Consulting Re-ZONE Application CRV #12-028
Master Development Plan – 43 Condominiums
Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at the Council Chambers at 826 N. Main St. in Old Town

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DATE:
October 19, 2013 1615 Crastriew Circle Barbara G. May
Name Address Parcel # 406-61-0590 Name Address Signature On Signature
ADDITIONAL COMMENTS: Muli-ptory buildings will not
conform to any of the other construction
The 16 street and would be an enesone.
Increased traffic and obstruction
Cof emergency vehicles to the Renior
Dliving facilities would occur.

Phil Moyer

Sent:

Brenda Eldred <beldred15@msn.com> Sunday, October 20, 2013 5:19 PM.

Phil Moyer FW: Date St

Subject:

Phil. Not sure if you have received this. Lots of concerns in our neighborhood.

Date: Sun, 20 Oct 2013 16:00:03 -0700 From: kennymollohan@yahoo.com

Subject: Date St.

To: douganddeznoble@msn.com; beldred15@msn.com

Please pass this info. along at tomorrows meeting. Based on the proposal submitted for the Skyline Condominiums, it is clear that there are a number on intersections that are unsafe These intersections should be a priority and brought up to safe standards before there is any increase in traffic due to future construction. Now that the city has been put on notice about these unsafe conditions the city is now subject to double damages for any future law suites. Respectfully Submitted,

Kenny Mollohan 1151 E. Date St. Cottonwood, Az. Retired Police Lt.

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1615 CRESTVIEW CIRCLE

as proposed in the zoning change application CRV #12-028. KICHARD B. MAY

G. MAY BARBARA

Address

Signature

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

> Cottonwood Arizona

86326

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Brenda Eldreb 830 S 124 St Name Parcel # 416-05-027744	Bula El Signature
ADDITIONAL COMMENTS:	· · · · · · · · · · · · · · · · · · ·
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DATE:		
Marian Brookener 1540 Crestone Name Address Parcel # 406 - 61-075	Signature	
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Phillip Moyer

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Address

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Cottonwood

Arizona

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WANACE VERRETTE

Address

Signature

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer | Post Office Box 1777

> Cottonwood Arizona

86326

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BARRY ADICO 1235

1235 E CRESTVIEW DR

Bany Adics

Name

Address COTTON WOOD AZ

Signature

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ARLA WILHARM 1545 ECRESTVIEW DR.

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S. RAIN BOWTAL. FOLD - TAPE 3 SIDES & RETURN COTTON WOOD, Phil Moyer Post Office Box 1777

Cottonwood

Arizona 86326

Cell: 928-300-4919 Fax: 928-634-6790

philm@cwbanker.com

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Marcella Letherarat 900 Corazon (a Marcella

Name

Address

Signature

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> Cottonwood Arizona 86326

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October 17, 2013

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Name 1765 ORO Address, VEL EIMS

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

Cottonwood
Arizona
86326

Cell: 928-300-4919 Fax: 928-634-6790 philm@cwbanker.com

10450 E. SWINGING BRIDGE CURNUILLE, AZ 86325

Phillip Moyer

Re: Protest Letter to the
Skyline Condominiums &
Casa Verde Consulting – CRV #12-028
Master Development Plan – 43 More Condos
Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at Council Chambers at 826 N. Main St. in Old Town Neighborhood Impact:

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Name	Address	Signature
Audrey M. CASSH- WARREN ANDM		Mich ley Wasser Post Office Box 1777 Cottonwood
920/5. +45t/	St Motorwal A.	Z Arizona 86326
Allen Arho	My	Cell: 928-300-4919 Fax: 928-634-6790
WAYNE A.CHSS.	HTT 5, 920 5012#	57. Wayne a. Canatt Jr.

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Name 1305 E. CRESTVIEW DR.
Address COTTONWOOD, AZ

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

> Cottonwood Arizona

86326

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Cottonwood Arizona 86326

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GEORGE BORDENAVE 1474 E CRESTVIEW DR CTWOOD OF THE SIGNAL

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John Averna

Name

Address Cottoniand A

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philm@cwbanker.com

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GERALD No. BUTAK

Address

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OLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

Cottonwood

Arizona

86326

Re: Protest Letter to the Skyline Condominiums & Casa Verde Consulting - CRV #12-028 Master Development Plan - 43 More Condos Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at Council Chambers at 826 N. Main St. in Old Town

Neighborhood Impact:

- * Traffic & Noise
- * Public Safety

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Please call me if I can answer any questions. Thank You! Best regards, Phil & Marciana Mover Cell# 928-300-4919 1640 Crestview Circle

October 17, 2013

Dear Cottonwood Zoning Commissioners,

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5529 SUNFIELD AVE. LAKEWOOD, CA. 90712

Signatur

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

Cottonwood

Arizona 86326

PROTEST LETTER

AGAINST SKYLINE CONDOMINIUMS

RE-ZONE APPLICATION ZO 13-022

NEXT HEARING DATE NOVEMBER 18, 2013

DEAR COTTONWOOD CITY ZONING COMMISSIONERS,

We own property on CRESTVIEW CIRCLE close to the proposed SKYLINE CONDOMINIUM DEVELOPMENT.

We are extremely concerned regarding traffic issues relating to the proposed zoning and consequent development of SKYLINE CONDOMINIUMS.

It is already difficult enough to exit from CRESTVIEW CIRCLE onto 16TH STREET due to the speed of traffic both ways on 16TH STREET. Due to curvature on 16TH STREET, traffic approaching from the north on 16TH STREET are blind to the traffic needing to exit from CRESTVIEW CIRCLE.

Additional traffic from the proposed zoning and development of SKYLINE CONDOMINIUMS will only serve to make this problem greater increasing the traffic substantially both along 16TH STREET and CRESTVIEW DRIVE for traffic going to 12TH STREET and 89A to reach OLD TOWN COTTONWOOD, THE LIBRARY, THE RECREATION CENTER OF CLARKDALE/JEROME VIA 89A.

In addition to the SKYLINE DEVELOPMENT, there is to be another development RIDGECREST TOWNHOMES where the only access in and out of this development will be by DATE STREET onto 16TH STREET. THIS ADDITONAL TRAFFIC WILL ADD TO THE PROBLEM STATED ABOVE. APPARENTLY THERE ARE NO FUTURE SHORT TERM PLANS TO HAVE DATE STREET LINK UP TO 12TH STREET FROM 16TH STREET. It was shown as a conceptual route on the 2003 COTTONWOOD GENERAL PLAN and is now shown as a proposed mid-range plan on the preliminary draft of the 2025 COTTONWOOD GENERAL PLAN.

According to the CITY OF COTTONWOOD engineering representative at the October 21 PLANNING AND ZONING COMMISSION MEETING, due to his traffic studies he does not believe this increase of traffic onto 16TH STREET from the proposed developments will cause problems for CRESTVIEW RESIDENTS as traffic will continue onto ELM STREET to access 12TH STREET. However our observations convince us that CRESTVIEW DRIVE is the most often used

route by current Skyline traffic as well as traffic from the Villas on Elm Street to access 12TH STREET, despite traffic sign on Crestview Drive directing people to use ELM STREET.

There is no other way to access 12th street to 89A from this area other than by going up CRESTVIEW DRIVE, RIDGEVIEW DRIVE OR ELM STREET. SKYLINE DRIVE to SOUTH MAIN STREET is almost impossible to turn left there without a signal. Planned outlet from SKYLINE DEVELOPMENT by the VIEW MOTEL to SOUTH MAIN STREET is also impossible to turn left there without a signal. At CAMINO REAL a left turn onto SOUTH MAIN STREET is not allowed.

TRUSTING THE COMMISSION WILL GIVE SOME THOUGHT TO THE SOLUTION OF CONNECTING 16TH STREET TO 12TH STREET AND NOT AS A MID-RANGE PROJECT AS STATED IN THE DRAFT OF THE 2025 COTTONWOOD GENERAL PLAN.

RALPH E. PRATT

PAMELA PRATT Panela Pratt

1625 E CRESTVIEW CIRCLE

COTTONWOOD, AZ 86326

PARCEL #406-61-058

Re: Protest Letter to the
Skyline Condominiums &
Casa Verde Consulting – CRV #12-028
Master Development Plan – 43 More Condos
Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at Council Chambers at 826 N. Main St. in Old Town Neighborhood Impact:

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* Public Safety

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Best regards,
Phil & Marciana Moyer
Cell# 928-300-4919
1640 Crestview Circle

October 17, 2013

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Phil Mover

Post Office Box 1777

Cottonwood Arizona 86326

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Name Address

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Phil Moyer Post Office Box 1777

> Cottonwood Arizona

86326

Addendum to Protest Letter

to the Skyline Condominiums and Casa Verde Consulting CRV # 12-028

to Cottonwood Zoning Commissioners

written by Greg Houck

Although the city respected our views as to the height of the buildings when the Villas on Elm were developed, adjacent to the Crestview development, other problems popped up that were ignored after being presented in the series of meetings. The main cause of several problems were rentals. How many should be allowed in my opinion are very few. The people who rent do not care about the property , just take a look behind the houses on 16th St. They do not care about how many dogs they have or when they let them out to bark at all hours. They are not vested in the neighborhood. The people who buy to rent do not care who they rent to, as long as there are bodies to pay the bills. I have seen a few police cruisers on that property.

My neighbor and I can tell you about wine and beer cans thrown into the yard. Also the number of people trying to pass through our yards to get to this development was insane, along with the obnoxious graffiti on the walls. We talked about some type of wall or fencing to be put in to thwart that but it never happened.

Also I am no engineer but the area behind 16th St. was supposed to have been planted and maintained but most of the gravel on the slope has eroded and no one maintains it at all. Behind my home at 1655 the erosion and rocks sliding down below is not right. The wall should have been higher or the hill terraced. Pender Engineering should have seen that after the project was complete. They really need to be more exacting should this project go through. I feel more single stories should be built which would be more in line with the neighborhood with maybe a smaller square footage so as to get in a few more units as needed. The units should have garages, no one wants to look at parking lots and there should be high walls or fences to make it difficult to take short cuts. Some of us have mail boxes across 16th St. How busy will that street be to try and get the mail now? How good are the owners rules and will they be followed unlike the Villas on Elm? It is all in the details.

CREGORY HOUCK 1655E, CRESTUIEN CIRCLE Suprature Signature

Re: Protest Letter to the
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WILLIAM VOLK

1265 RIDGEVIEW DR

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Address COTTONWOOD, A 2 86326

Signature

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer Post Office Box 1777

Cottonwood Arizona

86326

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Name

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Phil Moyer Post Office Box 1777

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Phil Moyer | Post Office Box 1777

Cottonwood

Arizona 86326

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Cell: 928-300-4919 Fax: 928-634-6790

philm@cwbanker.com

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Name

Address Cthruck AZ 86326 Signature

Post Office Box 1777

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Name

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Signature

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Phil Moyer | Post Office Box 1777

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MARGARET KERN

1800 MARIPOSA DR 86326

rub

Name

Address

Signature

*** FOLD - TAPE 3 SIDES & RETURN

Phil Moyer
Post Office Box 1777
Cottonwood
Arizona
86326

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Sherry L. Hilberger 8905, 12th St Signature, Hilberger Post Office Box 177

Cottonwood

Arizona 86326

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Post Office Box 1777

Cottonwood

Arizona 86326

Cell: 928-300-4919 Fax: 928-634-6790

philm@cwbanker.com

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Signature

Name Address Address COTTON WOOD, AZ 86326-251

Post Office Box 1777 Cottonwood

> Arizona 86326

Cell: 928-300-4919 Fax: 928-634-6790

philm@cwbanker.com

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Name Address Cottones of B286376

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Phil Mover Post Office Box 1777

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October 17, 2013

Dear Cottonwood Zoning Commissioners,

This letter is my written Protest in opposition to the Skyline Condos PAD as proposed in the zoning change application CRV #12-028.

Signature

FOLD - TAPE 3 SIDES & RETURN

Phil Mover Post Office Box 1777.

> Cottonwood Arizona 86326

Re: Protest Letter to the
Skyline Condominiums &
Casa Verde Consulting – CRV #12-028
Master Development Plan – 43 More Condos
Located off of 16th St. adjacent to Crestview & Skyline

HEARING DATE Oct. 21, 2013 6 p.m. at Council Chambers at 826 N. Main St. in Old Town

Neighborhood Impact:

- * Traffic & Noise
- * Public Safety

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Cottonwoo

Arizona

Cell: 928-300-4919

Fax: 928-634-6790 philm@cwbanker.com

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Evelyn Whaley 1775 Bluffer Address

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Phil Moyer Post Office Box 1777

> Cottonwood Arizona

> > 86326

October 15, 2013 .

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Name Address Cottonwood, AZ Signature

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Post Office Box 1777

Cottonwood Arizona 86326

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KATHY POSCHARSKY- POUNDS

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Name

Address

Signature

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Phil Moyer | Post Office Box 1777

Cottonwood

Arizona 86326

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Kanneth Bigary 1040 S 16 HPL Fernett S
Name Address Signature

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NICHOLAS EDWARDS

1770 VISTA DE MONTANA

icholas E. Colera

Name

Address

Signature

*** FOLD - TAPE 3 SIDES & RETURN

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> Cottonwood Arizona 86326

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830 CORFLON LATE
Address COTTONISON

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Robert D. Schubert 1525 E. Crestview Dr. Robert D. Saladert
Name Address Signature

Post Office Box 1777

Cottonwood Arizona

86326

рынт@смрапкет.сот Fax: 928-634-6790 Cell: 928-300-4919

86326 Arrizona

Cottonwood

LLLI xog əəmgoRes Protest Letter to the Skyline Condominiums &

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Phillip Moyer

Protest Letter

Against The
Skyline Condominiums &
Casa Verde Consulting Re-ZONE Application CRV #12-028
Master Development Plan – 43 Condominiums
Located off of 16th St. adjacent to Crestview & Skyline

Dear Cottonwood City Zoning Commissioners,

We own property in the area of this proposed development. This letter represents our written **PROTEST** against the Skyline Condominiums Master Development Plan request as proposed to the City of Cottonwood. Traffic is our main concern as the new developments access to 12th St. will be via 16th St. and Crestview; To Main St. will be via 16th St. to Elm or Skyline Dr. It is our opinion that the requested number of residential units by Skyline Condominiums project far exceeds the norm for the neighborhood. It is our request that you do not change the existing zoning on the parcels involved. We purchased our property knowing this land was zoned low density residential. Our serious concerns are the additional traffic this development will create, noise, public safety and our property values. Thank you,

David Kripschild Co Howwood 86326 Colla Stepachel

Print Name Address Signature

Additional Comments:

I live welken 300 ft of the proposed Levelopmont,

Talsen obliged to changing the Zong

Lito Condonies jens 11!

Email to: philm@cwbanker.com

Mail to: Phil Moyer PO Box 1777

Date:

Cottonwood, AZ 86326

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omstad 1640 E. Calle Corta

Address Coffenwood AZ

Signature

86326

Post Office Box 1777

Cottonwood Arizona

86326

August 17, 2015

Cottonwood City Council Members C/O Scott Ellis – Community Planner Re: Skyline Condos Project – 16th St. Zoning Change Request

Dear Mayor & City Council Members,

We are Phil and Marci Moyer who live at 1640 Crestview Circle. Our home sits adjacent to the south side and dead center (or ground zero) to the proposed Skyline Condos Planned Area Development (PAD) that is before you today.

This zoning change is serious business to us because when it is finally approved by you it will affect our privacy, safety, and potentially our property values. We, along with over 100 of our neighbors, have been very pro-active in this process over the years in an attempt to keep our neighborhood as safe and pleasant as possible. During past zoning hearings the Zoning Commissioners proposed to the applicant Tom Pender Engineering to work with us neighbors, in an attempt to modify the Skyline Condos Project to make it more compatible with surrounding neighborhoods. To his credit, Tom Pender has met with us adjacent neighbors and our Crestview H.O.A. Board. The results are that the Skyline Condominiums have modified their plan upgrading the look and construction and quality of the finished project. They reduced the two story units to one story along the south side (next to us in the low density R-1 zoning). They have also agreed to upgrade the condo structures from wood siding to stucco and from asphalt to tile roofs. They have also verbally agreed to create C.C.R.'s similar to those adopted by neighboring developments like Crestview.

There is also an important distinction to make about approving this development plan. There is no start date and no finish date. The applicant is not the developer. The applicant is the property owner who plans, someday in the future to sell the property with already pre-approved PAD zoning. Someone else will be completing the project, which makes this PAD Application before you kind of unusual.

So today, upon hearing this re-zoning request, it is doubly important for this Cottonwood City Council to ask all relevant questions pertinent for the full development and construction of the project, before you approve it. There should also be added to any approval, a list of conditions and stipulations agreed to by the applicant in writing, because this land will be zoned for this PAD forever. For this reason, I have attached a Cottonwood Staff Zoning Memo and notes that outline the sort of items I'm talking about. In 2004 there was a zoning approval of the "Villas on Elm" which is contiguous to our Crestview Subdivision, and which is also adjacent to the proposed project. The Villas is also adjacent to our Crestview Subdivision and the proposed Skyline Condos. By coincidence, the "Villas on Elm" were also developed for the property owners by Tom Pender Engineering. Prior to approving the "Villas" the City required assurances in writing that the developer would fulfill 22 conditions prior to construction. Of note: the developers agreed to reduce the elevation of the "Villas" from two stories to one story. They also agreed to build a block wall between the "Villas" and Crestview properties. The following are still our concerns about The Skyline Condominiums PAD:

- 1. What kind of Deed Restrictions are the Skyline Condos creating to keep order and cleanliness in their development? Are they employing current Skyline Apartment renter agreement conditions/rules? Would the developer agree to put limits (in their C.C.R.'s) on how many of these condos can be rented (say 20%) at any given time? It's our opinion and experience that property owners have "pride of ownership" and generally speaking tenants don't.
- 2. What kind of backyard lightings is allowed? What are the common grounds and parking area lighting going to be like?
- 3. What height are these "single story" (B) Units going in behind our backyard? They should specify this and not be allowed to exceed sixteen feet (16'). 16 ft. is one and a half stories.

- 4. Are the heating and cooling units going to be mounted on the ground or on their roofs? We recommend ground mounted.
- 5. CONSTRUCTION TIME LIMITS needed: There must be construction time limits placed, and agreed upon by the Skyline Developers prior to the City of Cottonwoods approval of this zoning change to a PAD. We neighbors don't want to be held hostage to a construction zone for years and years. It is our recommendation that at such time as a Building Permit has been granted to construct any Skyline Condo units or phases of the project that it be agreed that the developer not exceed 12 months to complete construction that was started.
- 6. **Very Important to us:** What kind of retaining walls are going to be built (adjacent to us) to retain the nine (9 ft.) of dirt being built up between our properties? And, is the developer planning to build a new 6 ft. block wall fence (as they did with the "Villas") between our backyard and their backyards?

**See attachments:

"Villas on Elm" Staff Memos Pender Elevation Map S.E.C. Elevation Map attached

Thank you for your time and consideration.

Sincerely,

Phil & Marci Moyer

1640 Crestview Circle

Cottonwood, AZ. 86326

928-300-4919 cell

Regular Meeting City Council November 2, 2004 Page 14

RE: The Villas on Elm

Council Member Pfeifer stated a lot of the people who will be buying the homes are fulfilling what is in the City's General Plan by becoming home owners, not renters. Currently there are more renters in the City than homeowners. Part of the General Plan is to make housing affordable so people can buy them. People in apartments now have one or two parking spaces; they don't have any sheds for their things; children are stacked on top of each other; and downstairs residents can hear the upstairs residents. Here there is single housing being built down so as not to obstruct the view of the other community. She said she and her family live in an older part of town so they can have their cars and stuff. This project will fill a void the City does not have now but that the Council has been working on, to help young families get out of the apartments and into their own home; they'll have pride of ownership. There will be a lot more plusses and benefits to the project than minuses.

Vice Mayor Lowe stated it was a good transition between the apartments and the upper end homes at Crestview. As Mr. Pender said, they had the right to go R-3 and go in and build apartments there. They would need to pass Code Review but they would not need to come under the scrutiny they are coming under with the PAD. It would be denser and wouldn't be something the neighbors would be happy with, and the first thing to consider is the neighbors, the people who live immediately next door to it and who would be most affected by it. He felt it would be a good plan, maybe not perfect but coming closer to perfect that what could be there.

Council Member Dockray moved to approve the Preliminary Plat for Villas on Elm located on the northwest corner of Elm and 16th Street with the twenty-two stipulations listed.

At this point Mr. Mickelsen interjected it needed to be subject to the approval of the Rezoning Application.

After adding this stipulation, motion was seconded by Vice Mayor Lowe and carried with a dissenting vote by Council Member Rothrock.

CLAIMS & ADJUSTMENTS

Council Member Dockray moved to pay the claims and adjustments. Motion was seconded by Vice Mayor Lowe, and carried unanimously.

CALL TO THE PUBLIC

There were no comments from the public.

ADJOURNMENT

Mayor Jauregui moved to adjourn. Motion was seconded by Council Member Dockray, and carried unanimously. Regular meeting adjourned at 7:52 p.m.



STAFF MEMO

TO:

Members of the Planning and Zoning Commission

THROUGH: Jerry Owen, Community Development Director

FROM:

Krista Cline, Planner

FOR:

November 15, 2004

SUBJECT:

FP 04-001. Consideration of a Final Plat for "Villas on Elm" located on the northeast corner of Elm Street and 16th Street. APN#: 406-

04-046G.

This is the review of a request for Final Plat approval of a 109-lot subdivision entitled Villas on Elm. The approximate 10.8 acre development is located at the northeast corner of 16th Street and Elm Street.

The property is currently zoned "R-3" Multiple-Family Residential. The surrounding area zoning includes "R-1" to the direct West, "PUD/R" to the South, and "R-3" to the East, "C-1" to the North. The General Plan identifies this area as "Residential-High Density." The property is also under consideration for rezoning to "PAD" (Planned Area Development). Being that the rezoning has not been approved, any motion for approval of the Final Plat would require a stipulation of approval conditioned on approval of the rezoning.

It is also important to remember that the plat proposes 109 units with access on Elm Street and 16th Street. The applicant/agent and the Crestview neighborhood have discussed locating a left turn only sign at the 16th Street egress. Staff would like to make it clear that 16th Street in a public road which acts as a vital collector element in the transportation system. The City may not support the understanding made between the applicant/agent and the Crestview Homeowners Association. Further discussion and analysis will be necessary.

In accordance with the newly adopted mandatory sprinkler Ordinance, all residences in this subdivision will have fire sprinklers to reduce the development requirements for fire safety concerns. Hot water recirculating systems and dual plumbing (grey water) were required as stipulations on the Preliminary Plat and rezone.

Staff has yet to approve of the submitted grading, drainage, and sewer plans.

As discussed with the agent and applicants on Friday, October 29, 2004, the constructions plans including grading, drainage, and sewer solutions and financial assurances must be approved by Staff prior to Final Plat submittal to the City Council. Staff will not schedule a City Council Final Plat review until all of these issues have been approved by Staff.

Staff recommends approval of the Final Plat subject to the following stipulations:

- 1. That all overhead power lines serving or crossing the site be undergrounded.
- 2. That the Dust Control and Stormwater Control Plans be approved by the Public Works Department.
- 3. That fire sprinklers are required for all residences.
- 4. That the applicant obtain a right-of-way permit for construction as per the Public Works Department requirements.
- 5. That the development extend and hook to the City sewer system.
- 6. That the project be approved with the proposed sewer connections, grading plan, and drainage plan. Any significant change as determined by the City will require full review and approval.
- 10. That the existing City owned slope easement be removed as an encumbrance to the property prior to Final Plat recording, subject to the financial assurance instrument.
- 11. That the community park be open and accessible to the public as affirmed by the Covenants, Conditions, and Restrictions, as well as, signed as such.
- 12. That sheet 3 of 3 be corrected to call out widths of the known rights-of-way surrounding the project.
- 13. That the improvement plans and assurances are approved by Staff prior to City Council Final Plat submittal and scheduling.
- 14. That a recent (within 6 months) title report for the property be provided. That corporate papers that show the signer is authorized to execute such a document are provided.
- 15. That dual-type plumbing including diverter valve and hot water recirculating system be required for all residences.
- 16. That the Final Plat approval is subject to the Planned Area Development approval.
- 17. That the Conditions, Covenants, and Restrictions include a clean, bulleted description of the Association's maintenance responsibilities including private street paving, parking enforcement, landscape and irrigation on common area and on individual lots, stormwater/sewer maintenance, etc.
- 18. That the revisions and technical corrections on the Covenants, Conditions, and restrictions and Final Plat be completed to Staff requirements prior to City Council submittal and scheduling.

Regular Meeting City Council November 2, 2004 Page 12

narrow street and it doesn't seem to cause a problem. He felt this project was very well designed and layer out, with units that have sprinkler systems, and was carefully reviewed and did not feel there would be a problem with access for emergency vehicles.

Mayor Jauregui then requested the City Clerk to read the first reading of Ordinance Number 459 by title only.

ORDINANCE NUMBER 459

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING THE ZONING MAP OF THE CITY OF COTTONWOOD, ARIZONA, FOR A PARCEL OF LAND LOCATED AT THE NORTHEAST CORNER OF 16TH STREET AND ELM STREET INTERSECTION, PARCEL NUMBER 406-04-046G, SO AS TO CHANGE CERTAIN DISTRICT BOUNDARIES AND CLASSIFICATIONS THEREOF FROM THE PRESENT ZONING OF R-3 (MULTIPLE FAMILY RESIDENTIAL) TO PAD (PLANNED AREA DEVELOPMENT).

CONSIDERATION OF A PRELIMINARY PLAT FOR VILLAS ON ELM LOCATED ON THE NORTHWEST CORNER OF ELM & 16TH STREET (APN #406-04-046G.)

Ms. Cline stated the Preliminary Plat for the previous item went through the same process the Master Development Plan and the Rezone hade gone through. This development falls under the new PAD Ordinance, new International Building Codes, New Grey Water Ordinance, and new Fire Sprinkler Ordinance. A couple of outstanding questions have to do with the drainage, the grading and the sewer connection, which construction plans have been submitted to the Public Works Department. They are in the process of reviewing those. The Rezone and the Preliminary Plat include the stipulations that should the grading, drainage and sewer not meet what has been proposed and subsequently approved, the project would be required to go back to full review. The Planning and Zoning Commission had twelve stipulations and staff reviewed the Preliminary Plat at the Council level and has added nine or ten more. She then read all twenty-one stipulations that were provided in the memo in the Council's packet. An additional stipulation was added, stating the Preliminary Plat was subject to the PAD approval. The Rezone, the previous item, was only the first reading and staff was asking for Preliminary Plat approval at this time; pre-plat approval prior to finalization of the Rezone.

Council Member Rothrock asked if the item was approved would that indicate the Council approved of the ten houses per acre plan and not enough parking or could we see changes to it.

Mayor Jauregui replied this was the Preliminary Plan. Changes could probably appear on the final plan and the final plan would come before the Council for approval.

Council Member Rothrock stated he liked the idea of affordable housing for people, he liked

AGREEMENT TO CONSTRUCT SUBDIVISION IMPROVEMENTS THIRD PARTY TRUST

THE VILLAS ON ELM

BY THIS AGREEMENT made and entered into by and between CW Elm Street Properties, L.L.C., an Arizona limited liability company (the "Owner"), and Chicago Title Insurance Company, a Missouri corporation, as Trustee under Trust No. 3661 (the "Trustee") and the City of Cottonwood, a municipal corporation (the "City"), the above mentioned Parties hereby confirm and agree as follows:

RECITALS

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- A. The Owner intends to develop the property more fully described in Exhibit "A", attached hereto and incorporated herein by reference (the "Property"). The Property is the subject of a subdivision plat (the "Subdivision Plat") identified as The Villas on Elm, Units 1 through 109, inclusive (the "Subdivision") recorded in the Office of the Yavapai County Recorder Book 57 of Maps, pages 37,3839
- B. The Parties to this Agreement wish to establish specific terms, conditions and guidelines to provide for assurances for the completion of the required subdivision improvements.
- C. The City seeks to protect the health, safety and general welfare of the community by requiring the completion of various improvements in the Subdivision and thereby to limit the harmful effects of substandard subdivisions, including premature subdivision which leaves property undeveloped and unproductive; and
- D. This Agreement inures to the benefit of the Parties and is not executed for the benefit of third parties, such as, but not limited to, material men, laborers, or others providing work, services or materials for the Subdivision, or for the benefit of lot or home purchasers in the Subdivision.

AGREEMENT

NOW THEREFORE, based on the foregoing recitals, the Parties agree as follows:

1. Construction of Subdivision Improvements. Owner hereby agrees construct and install, at its own expense, all subdivision improvements for the property as described in Exhibit "B", attached hereto and incorporated herein by this reference (the "Improvements"). Said Improvements will be installed and completed, as set forth in Exhibit "B". The Owner's obligation to complete the Improvements will arise as of the date of recording (the "Start Date"). The

Owner's obligation to complete the Improvements is independent of any obligations of the City contained herein and is not conditioned on the sale of any lots or improvements within the development. Nothing contained in this Agreement shall be construed as an undertaking by the Trustee to install, or to guarantee the installation of, or to indemnify any other person for the installation of the Improvements.

- 2. Existing Utilities. Any costs to relocate or modify existing utilities or improvements shall be the responsibility of the Owner. Owner's performance of this requirement shall be considered in determining whether to release assurances under Paragraphs 10 and 11.
- 3. Assurance of Construction. This Agreement is submitted as an assurance that Owner will construct the Improvements as required by state and local law and as set forth in the final plat and construction plans.
- 4. Start of Construction. Owner shall begin construction of the improvements within twelve (12) months of the Start Date, and will diligently pursue completion of the Improvements. Owner's failure to do substantial work on the Improvements for a period of thirty (30) consecutive calendar days shall be presumptive evidence that Owner is failing to diligently pursue construction of the Improvements.

Completion of the Improvements. The Improvements shall be completed by Owner in accordance with Exhibit "B" by thirty six (36) months of recording. The Improvements shall not be considered completed unless and until the Improvements have been constructed in accordance with all applicable plans and regulations and after the City has determined, after inspection, that they are in compliance with said plans and regulations. Any extension of time for the completion of the Improvements beyond thirty six (36) months of recording shall require approval by the City Council.

- 6. Acceptance of Improvements. The City shall not accept the Improvements or maintenance responsibility for the Improvements unless and until all of the following have occurred:
 - a. The Improvements have been completed in accordance with Paragraph 5 of this Agreement.
 - b. The Improvements and the right-of-way in which the Improvements are located has been dedicated or conveyed to the City by Subdivision Plat or separate instrument, as applicable.
 - c. The dedication or conveyance, as applicable, has been accepted by the City as evidenced by the approval of the Subdivision Plat or by some other formal action.

. * D. *

7. Warranty. The Owner warrants that the Improvements, each and everyone of them, will be free from defects for a period of one year from the date that the City accepts the maintenance of the last improvements completed by the Owner.

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- Security. To secure performance of its obligations hereunder, the Owner, as Second Beneficiary, has placed or will place the Property into a third party trust (the "Trust") that is subject to the terms of this agreement. Said Trust is designated as Trust No. 36011 on the records of Chicago Title Insurance Company, the terms of which are incorporated herein by reference. Owner agrees that if this Agreement is terminated for any reason before the completion of all Improvements required hereunder, Owner shall tender to the City 1) monetary assurances in an amount equal to the City's estimate of the total cost to complete the Improvements, or 2) other assurances acceptable to the City.
- Limitation on Transfer or Further Encumbrance of Title. Except as provided in Paragraphs 13 and 14 below, the Trustee shall not convey title or any other right or interest to the Property or any portion of the property which would precede the City's interest herein, without obtaining prior written approval from the City in the form of a Release of Assurance signed by the City Engineer.
- 10. Release of Assurances. This Agreement shall be released by the City and a Release of Assurance shall be given by the City Engineer only upon satisfactory completion and acceptance by the City of the Improvements in accordance with Paragraph 5, or the tender by Owner and acceptance by the City of substitute assurances.
- 11. Partial Release of Assurances. The City may, in its sole discretion, issue a Release of Assurance for some of the lots created by the Subdivision Plat if both of the following have occurred:
 - All of the Improvements required in connection with the released lots have been completed in accordance with Paragraph 5 of this Agreement; and
 - b. The City finds that the release lots and Improvements required in connection with such lots can be used and maintained separately from the Improvements not yet completed.
- 12. Substitution of Assurances. Owner may submit substitute assurance in a form and amount acceptable to the City at any time during which Owner is not in default of this Agreement. The City Engineer may approve a substitution of the Beneficiary or the Trustee (the "Substitute Assurance Agreement"), and may execute the Substitute Assurance Agreement on behalf of the City.
- Contracts for Sale. Notwithstanding Paragraph 9, the Owner may enter into a contract or a deposit receipt agreement for the sale of the Property or any portion of the Property if the contract or agreement clearly states that no portion of the

Property shall be conveyed until the Owner performs its obligation under this Agreement. Prior to entering into a contract or contracts for sale or deposit receipt agreement, the Owner shall submit to the City a copy of the form of contract of agreement containing the disclosure of limitation on the power to convey.

Bulk Sales. Notwithstanding Paragraph 9, the Owner may sell and the trustee may convey all of the Property in one transaction to a single purchaser, who has tendered to the City satisfactory assurances for the completion of Improvements, upon acceptance by the City of such assurances.

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- 15. Conveyance Out of Trust for the Purpose of Encumbrance. Notwithstanding Paragraph 9, the Trustee may convey all or part of the Property to the Owner or Beneficiary of the Trust solely for the purpose of encumbering the property by the recording of mortgages or deeds of trust, provided that the Property is thereafter immediately reconveyed into the Trust.
- 16. City's Option Upon Default. If Owner defaults on its obligations under this Agreement, the Parties agree that, in addition to any other remedies the City may have against the Owner or Trustee for failure to perform as required under this Agreement, the City shall have and is hereby granted the right, at its sole discretion, to initiate a process to replat the Property to revert to acreage of approximately the same boundary configurations of record existing before the Subdivision plat for the Property was recorded. The Owner hereby authorizes the City to execute on behalf of the Owner all documents necessary to replat the Property. The replat may exclude any dedications to the public, which were made on the Subdivision plat or by separate instrument which are deemed necessary to serve the portions of the property which are not replatted or to necessarily serve the public. Owner shall pay the reasonable costs incurred in replatting. Prior to initiating any action to replat the Property or any portion of Property, the City shall give thirty (30) days first-class mailed notice to the Owner and Trustee at their last known address.
- 17. Issuance of Permits. The City shall not issue any permit for development of the Property or any portion of the property, except permits for the completion of the Improvements, unless the City has on file acceptable assurances for the completion of the Improvements or the City has given a Release of Assurances for the Property or that portion of the Property subject to the development permits.
- 18. Termination. This Agreement shall remain in full force and effect until one of the following has occurred:
 - a. All the Improvements have been completed and accepted in accordance with Paragraphs 5 and 6 as evidenced by a written statement from the City Engineer.

- b. The Owner has tendered substitute assurances accepted by the City for the completion of the Improvements.
- c. A new Subdivision plat has been recorded for the Property in compliance with any and all applicable laws and regulations.

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- Binding Effect. If in violation of the prohibitions contained in Paragraph 9, the legal or beneficial title to the Property changes, for any reason, without approval of substitute assurances or issuance of a Release of Assurance by the City, this Agreement shall remain binding upon the Parties and their respective successors and assigns. This paragraph shall not be construed as a waiver of the limitations on the transfer of title contained in Paragraph 9 or the requirements for Release of Assurance or substitute assurances contained in Paragraphs 10 and 12.
- 20. Severability. If any portion of this Agreement is found to be invalid, such finding will not affect the validity of the remainder of this Agreement and to this end the provisions of this Agreement are severable.
- No Waiver. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor shall it be deemed to be a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the City and the Owner, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default of the same type. The City's failure to exercise any right under this Agreement will not constitute the approval or ratification of any wrongful or negligent act or omission by the Owner.
- 22. Notice. The Owner agrees to provide written notice to the City within ten (10) days in the event 1) a change of name, corporate identity or address of the Owner or the Trustee; 2) intent to transfer, or a transfer of or other encumbrance upon title to the Property by deed, contract or operation of law; 3) the foreclosure of a lien against the Property or a portion of the Property; 4) the filing of a voluntary or involuntary petition of bankruptcy respecting the Owner; 5) any other event that may affect performance of the Parties under this Agreement.
- Pursuant to Cottonwood Municipal Code 17.20.030, neither this Agreement nor the City's approval of the final plat shall constitute final acceptance of the subdivision. As set forth therein, such acceptance shall be contingent upon "completion and approval by such person as authorized by the mayor and council, of all construction of roads, alleys, drainage or any other requirements made by the council, and payment in full of any fees required for such inspection and approval".

Address (of	Par	ties	
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Owner:

CW Elm Street Properties, L.L.C.

4117 N. 44th Street Phoenix, AZ 85018

Trustee:

Chicago Title Insurance Company

3033 N. Windsong Drive, Suite 102

Prescott Valley, AZ 86314

City:

City of Cottonwood 827 N. Main Street

Cottonwood, AZ 86326

- Date of Agreement: The date of this Agreement shall for all purposes be the date of the signature of the last Party to sign this Agreement.
- 26. Conflict of Interest: This Agreement may be cancelled in accordance with the terms of A.R.S. §38-511.

TRUSTEE:

Chicago Title Insurance Company,

A Missouri corporation

Trust Officer

OWNER:

CW Elm Street Properties, L.L.C., an Arizona limited liability company

By: Clark-Wayland, Inc., member

By:

Jere Clark, its President

CITY:

City of Cottonwood

Mayor of the City of Cottonwood

Approved as to form:

Bv.

Brandon J. Kayanagh

Mangum, Wall, Stoops & Warden, P.L.L.C.

City Attorneys

STATE OF ARIZONA)
COUNTY OF)
The foregoing instrument was acking the foregoing instrument was acking the first of the first o	nowledged before me this 27th day of who acknowledged cer of Chicago Title Insurance Company. Notary Public
STATE OF ARIZONA COUNTY OF MARICOTA)))
The foregoing instrument was acknowledge an Arizona corporation. OFFICIAL SEAL RONALD E. GERASIMOS NOTARY PUBLIC - State of Arizona MARICOPA COUNTY My Comm. Expires Nov. 5, 2007	owledged before me this 23nl day of eve Clark, President, Clark-Wayland, Inc., Notary Public
STATE OF ARIZONA)
COUNTY OF)
The foregoing instrument was acknown January , 2004, by Ru Cottonwood.	wledged before me this 7 th day of ben Jaurebul, Mayor of the City of
	Notary Public OFFICIAL SEAL MARIANNE JEMENEZ HOTHER PCD DESERVED AFFICIAL YAVAPA COUNTY My Comm. Expires Dec. 4, 2007

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EXHIBIT "A"

Lots 1 through 109, THE VILLAS ON ELM, according to the Plat of record in Book 52 of Maps, pages 257,38,39, in the office of the County Recorder of Yavapai County, Arizona.

EXCEPT THEREFROM all oil, minerals, ores, metals of every kind and character as reserved from said land.

EXHIBIT "B"

OFFSITES

Sidewalk construction along the east side of 16th Street.

Landscaping along the Elm Street and 16th Street frontages.

ONSITES

Curbs and sidewalk paving and landscaping of common areas-

Rough grading and pad, sewer, water, storm drainage, electricity, gas, telephone, cable, and landscaping of common areas.

The improvements, generally mentioned above, are fully described in the Villas on Elm construction plans by Pender Engineering, Sheets C1-C31, dated by Thomas Lloyd Pender, PE on November 15, 2004 and approved by the City of Cottonwood and including all subsequent approvals and approved as-built modifications.

Re: Z 13-022-SKYLINE APARTMENTS PAD

4/29/2015

Concern:

Safety and Trespass

Consensus:

It is agreed that the developer will re-establish the fence between the subject property and the

Villas on Elm subdivision.

Concern:

Duration of Construction

Consensus:

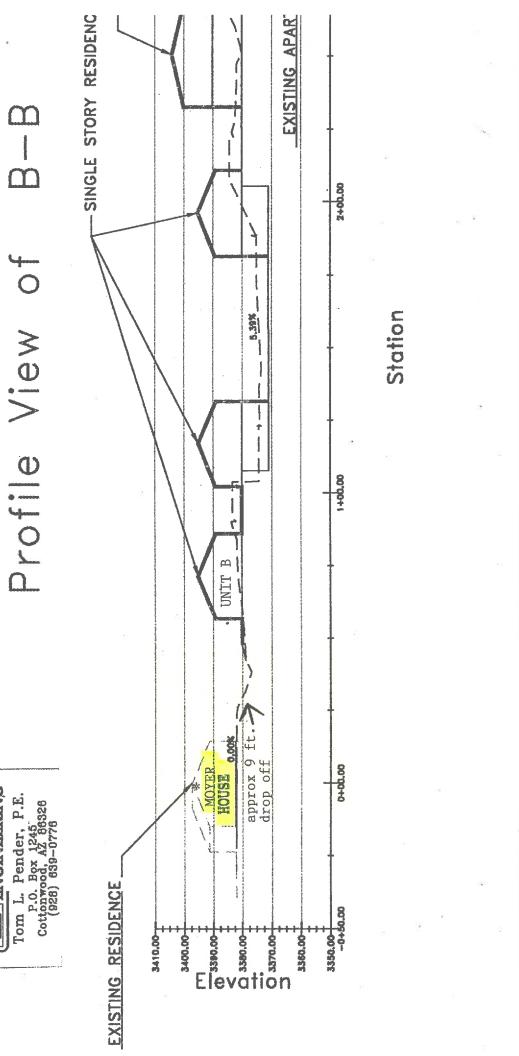
The developer will require their contractor to provide a schedule of time necessary to construct the planned facilities. Once the construction of the phase is started the contractor will be required to diligently pursue the completion. The intent of this is to limit the duration of

inconvenience to the adjoining property owner's.

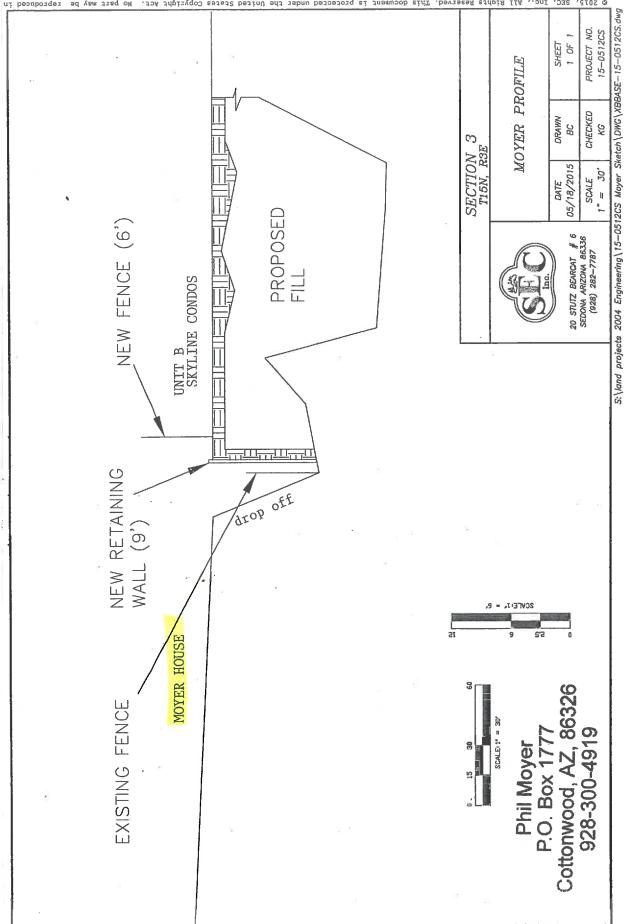
Respectfully,

Tom L. Pender, P.E.

C: Sy Brandon, President Crestview HOA Phil Moyer, Property owner



Tom L. Pender, P.E.





STAFF MEMO

TO: Planning and Zoning Commission

FROM: Scott Ellis, City Planner

THROUGH: Berrin Nejad, Community Development Director

HEARING DATE: October 21, 2013

PROJECT NUMBER: Z 13-022 Skyline Condominiums

Applicant, Skyline Apartments, LLC and Seabourn, LLC, is requesting a zone change on three (3) parcels from Single Family Residential (R-1), Single Family Residential/ Multifamily (R-2), Multiple Family Residential (R-3), and Light Commercial (C-1) to Planned Area Development (PAD) in order to convert existing apartments to condominiums and build additional condominiums in the future as housing market demands, on 5.78 acres, located between 16th and Main Streets.

PROJECT DATA AND FACTS: (Exhibit 1)

TROOLET DITTITUD THE IS: (EXIII)		
Applicant/Property Owner	Skyline Apartments, LLC and Seabourn, LLC	
	5200 N. Camino Sumo Tucson, AZ 85718	
Representative	Mike Gardner, Senior Planner	
Location of Property	840 and 842 S. Main Street	
Present Zoning and Land Use	R-3 (Multiple Family Residential), R-2 (Single Family/Multiple Family Residential), R-1 (Single Family Residential), C-1 (Light Commercial)	
Description of Applicant's Request	Rezone three parcels to PAD in order to convert existing apartments to condominiums, and build future condominiums as housing requirements dictate.	

LAND USE: (Exhibit 2)

Description and Character of Surrounding Area

The site is situated east of 16th Street and west of Main Street. On the north, surrounded by various residential properties, zoned R-2 and PAD, to the south zoned residential PAD, to the west residential housing zoned R-3, and a commercial motel on the east zoned C-1. The existing apartments are located at most eastern parcel.

Adjacent Land Uses and Zoning			
North:	PAD Planned Area Development – Residential Duplex's R-2 Single Family/Multiple Family Residential – Residential Homes		
South:	PAD Planned Area Development – Residential Housing		
East:	C-1 _Light Commercial – Motel		
West:	R-3 _Multiple Family Residential – Vacant Lot		

PROJECT PROPOSAL:

Background

The site consists of three parcels; one has the existing Skyline Apartments and others are vacant. Applicant would like to rezone the parcels to PAD, convert the existing apartments to condominiums, and develop the vacant land by building 43 new condominiums in separate phases as housing demand warrants. The new development will have three models of one and two-story condos, ranging in size from 1,117 sq. ft. to 1,400 sq. ft. with a year-round outdoor community use area.

The proposed use is in accordance with the *Future Land Use Map* according to the Cottonwood General Plan.

Site Design (Exhibit 3)

Land Use	
Percentage of site devoted to building coverage	21.74%
Percentage of site devoted to open space	38%
Percentage of site devoted to landscaping	~25%
TOTAL	84.74%

Parking

Proposed	Required
83 stalls	73 stalls

Structure Design

Structure Besign		
Number and Proposed Use of Building	31 Existing apartments to be converted to	
	condominiums	
	43 New condominium units	
Number of Stories	1-2	
Square Footage	1,117-1,400sq.ft. for new units	
	239,144 sq.ft. (5.49 acres) entire site	

Lighting:

All lighting will be designed to be in compliance with section 408 of the City of Cottonwood Outdoor Lighting Ordinance.

Signage:

No signage is proposed at this time.

Access:

Access to the site is currently off Main Street through The View Motel. New access to 16th Street will be developed to provide a safer and easier route for residents.

Landscape Plans:

A comprehensive landscaping plan has been submitted for this site and reviewed by staff. Numerous trees and plants/shrubs are planned throughout the site, to include providing a buffer/screen from surrounding properties. All hardscape landscaping will consist of large and medium native boulders, rocks of varying types and colors, and gravel.

Utilities:

All utilities exist on or at the boundary of the proposed site. Further development will be conducted as the project progresses. All utility development will be submitted to Public Works for approval before any work is done.

CRB Review:

This project was reviewed by the CRB (Code Review Board) on June 25, 2013 and applicant will comply with all comments prior to development of site.

Architecture, Materials, Colors: (Exhibit 4)

The new condominiums will use an offset building design to avoid large massed areas. The exterior walls will have stucco in muted colors to help compliment the original apartment buildings. Trim and shingle colors will also compliment the stucco.

GENERAL PLAN:

Analysis: As per Arizona Revised Statutes (ARS), a change of zoning must conform to the adopted General Plan of the municipality as relates to the range of uses, densities and intensities indicated in the land use element. Such conditions are specifically described through the Land Use Map. The applicable section of ARS Title 9 (Cities) is as follows:

ARS 9-462.01. Zoning regulations; public hearing; definitions

F. All zoning and rezoning ordinances or regulations adopted under this article shall be consistent with and conform to the adopted general plan of the municipality, if any, as adopted under article 6 of this chapter. In the case of uncertainty in construing or applying the conformity of any part of a proposed rezoning ordinance to the adopted general plan of the municipality, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan. A rezoning ordinance conforms to the land use element of the general plan if it proposes land uses, densities or intensities within the range of identified uses, densities and intensities of the land use element of the general plan.

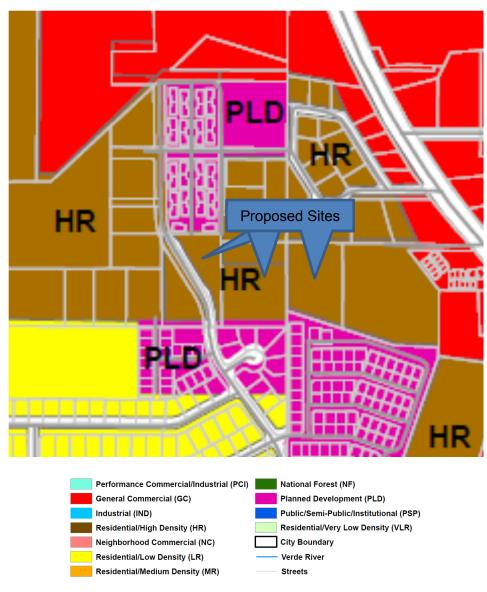
PAD Proposal:

The PAD rezoning request for the Skyline property includes property to the west zoned R-1, and indicated on the current General Plan land use classification map as Medium Density Residential (MDR). The east portion of the property zoned C-1 is indicated in the current General Plan as Commercial (COM).

Proposed General Plan Update (2013):

The proposed Draft General Plan 2025 indicates the Land Use classification for this area as Residential / High Density (HR). The area is located within walking distance to the commercial retail corridor along SR 89A and SR 260. Apartments and townhomes support the viability of this sub-area as a walkable, interconnected neighborhood, which is a goal of the general plan. The proposed General Plan update indicates Residential / High Density as the following:

RESIDENTIAL /HIGH DENSITY (HR): Intended to accommodate multi-unit housing and neighborhood locations with a mix of housing types. Properties could have as much as 12- 29 units of housing per acre based on the zoning and property development requirements. (R-3 & R-4 Zones)



GENERAL PLAN CONFORMANCE:

The State Statute allows such rezoning requests to be considered in terms of goals and policies of the General Plan. The aggregate of the combined parcels can be used for the determination of General Plan conformance regarding density. In addition, the applicable State Statute section describes the method for making such determination as such: "the [rezoning] ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals, policies and applicable elements of the general plan." In this case, the General Plan supports higher density residential use in this area to further the goals of supporting a mixed use, commercial core in the vicinity. The proposed PAD zoning is indicated as in conformance with General Plan goals for this area.

RECOMMENDATION:

Staff has reviewed this project and recommends approval of Z 13-022 subject to the following stipulations.

- 1. That the project conforms to Code Review Board comments dated 06-25-13.
- 2. Any other stipulations the Planning and Zoning Commission deems necessary.

SKYLINE CONDOMINIUMS AN INFILL PLANNED AREA DEVELOPMENT





PROJECT INFORMATION

Property Owner: Skyline Apartments, LLC and Seabourn, LLC in care of

Stan Graham, 5200 N. Camino Sumo, Tucson, AZ 85718

Project Engineer: Pender Engineering, PO Box 1245, Cottonwood, AZ 86326

Project Architect: Christian Vernosky, 411 S. 14th Street, Cottonwood, AZ

86326

Project Planning Services: Casa Verde Consulting, 1800 S. Quail Run, Cottonwood, AZ

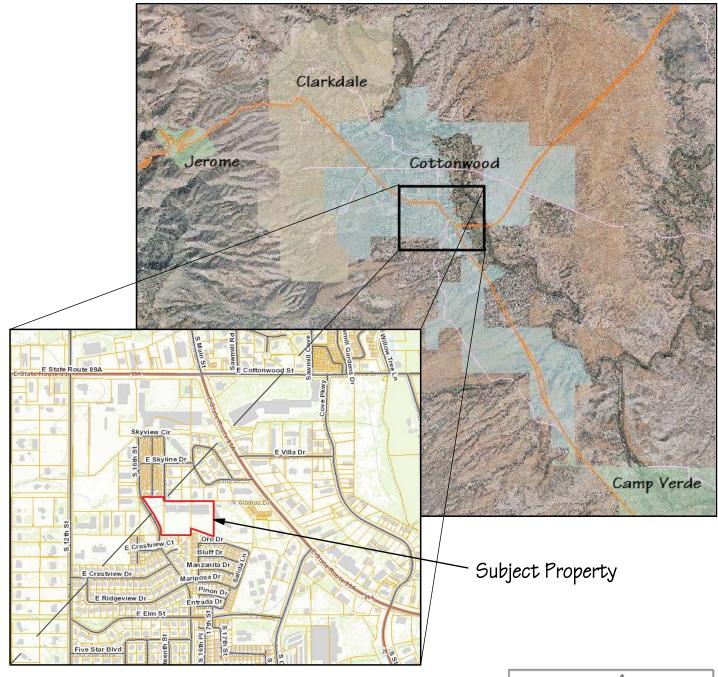
86326

Presented By:





VICINITY MAP



CASA VERDE
Consulting, Planning and Design



Aerial Photo with Site Photo Locations







From Location "A" Looking East-Southeast Skyline Estates on Left

From Location "B" Looking North at Skyline Estates



Skyline Apartments From Location"C" Looking Northeast



From Location "C" Looking East

From Location "C" Looking Northeast



From Location "C" Looking Southeast





CODE REVIEW APPLICATION

Case Number:	
Date:	
Instructions: Please complete only those items related to relevant write "NA" in the space. Attach six sets of plans to Process.	• •
Project Name	
Street Address	
Assessor's Parcel Number	
Zoning Classification	
Proposed Use of Property	
Property Owner Name and Address	
Applicant Name and Mailing address:	
(if different from Owner)	
Phone #(s)	_
Project Coordinator Name and Address (if different from Applic	cant) This Person is responsible to interact with the
City on all matters pertaining to the application.	
Phone #	
e-mail	N. I. CD. I. C
Gross Square Footage of Property	Number of Parking Spaces
% Of Property covered by Buildings	
Setbacks: Front Rear Side Side	
I hereby file this application as the party of interest or information in this application and the accompanying plans and belief.	
Signature:	
Print Name:	

C:\WS_FTP\Cyber\Codereview1.doc

CASA VERDE CONSULTING PLANNING AND DESIGN

A Division of Baile Luna, Inc., an Arizona Corporation

1800 S. Quail Run Cottonwood, Arizona 86326

Planning Northern Arizona Since 1994

Michael Gardner, Senior Planner Phone/Fax (928) 634-7686 Mobile (928)-399-0003 Email: mikeg@azpermitpushers.com

Wednesday, June 05, 2013

Code Review Board Members:

I am pleased to represent Pender Engineering and Mr. Stan Graham, owner of the existing Skyline Apartments complex and the parcels addressed by this application. It is Mr. Graham's intent to subdivide the existing apartment complex by means of a condominium airspace plat, and to further develop the balance of the vacant property as a residential medium density planned area development consisting of 45 new one and two-story condominium units ranging in size from 1117 to 1400 ft.² livable area.

The subject property totals approximately 5.49 acres and includes Yavapai tax parcels 406–04–040, 406–06–029M and 406-06-364G (referred to herein as 040, 029 and 364). These parcels are currently zoned C-1, R-1 and R-3, respectively. All parcels lie within planning area 10, Commercial Core as identified in the city's current general plan. Parcels 029 and 364 are currently designated on the general plan land-use map for medium density residential use and the proposed development would fit within the current designation, however, parcel 040 is designated on the land-use map for commercial uses. Planning staff has indicated that a minor general plan amendment would be required for the proposed development on this particular parcel. An application for a minor general plan amendment as well is an application for a zoning map change to PAD, planned area development will be forthcoming.

The development is currently designed to be executed in several phases or combination of phases, depending on sales demand for different unit types.

The existing apartments are currently accessed via Rainbow Trail from Skyline Drive off of S. Main St. Completion of this development would provide a second access onto S. 16th St., South of Date St. This new access will greatly increase the convenience of access of all the residents within the development, as well as enhance access for emergency services, pedestrians and cyclists.

We appreciate any comments received during this preliminary code review and will be on hand to answer questions and discuss this project in its early planning stages. Thank you for your consideration.

Mike Gardner Senior Planner

Casa Verde Consulting, Planning & Design

1800 S. Quail Run

Cottonwood, Arizona 86326

928-399-0003



June 10, 2013

Mike Gardner Casa Verde Consulting 1800 S. Quail Run Cottonwood, AZ 86326

RE: CRB 13-015 Expansion of Skyline Apartments/Condos

Dear Mike,

This letter is to confirm receipt of your Code Review application and \$50 fee for the above referenced application. Please be advised the meeting will be held in this office at 9AM on Tuesday, June 25, 2013. Please make sure that either you or a designated representative is in attendance for this meeting.

Please call if you have any questions.

Sincerely,

George Gehlert

Community Development

Enc:

Code Review Application Cover

Receipt #6261

C:

Berrin Nejad, Community Development Manager

Application File

RECEIPT

CITY OF COTTONWOOD

Planning & Building Department 111 N. Main Street, Cottonwood, Arizona 86326 (928)634-5505 Office

DATE 6-	6.13	\$ 50-	
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		月当13-	
Ci	4VC#E	083	
P & Z	\$	DRB \$	50-
Building Fee	\$	Plan Check \$	
Fire Dept. Fee	\$	_ Water Impact \$	
Eng. Inspect Fee	\$	Waste Water Impact \$	
Eng. Plan Check Fe	ee \$	Sewer Impact Fee	\$
Sign Permit	\$	Sewer Accounting \$	
Thank You	Please ke	Sewer Accounting Seep this copy for r	elerence.
No. PB-626 STARLIGHT PRINTING (928)6)1	Rec'd by	



VIA EMAIL December 19, 2012

Tom Pender Pender Engineering POB 1245 Cottonwood, AZ 86325

Re: CRB # 12-028 Condominium Plat for Skyline Apartments

840-842 South Main Street APN 406-06-029M and -040

Dear Tom,

Thank you for attending the December 4th Code Review meeting. We look forward to working with you in the review of this project.

The proposal includes a condominium plat for the existing Skyline Apartments, located at the address above. As submitted, the condo plat would result in a subdivision of airspace only. All of the property and physical site improvements would remain in common ownership under a property association.

Although no physical site development was suggested as part of the current application, you stated at the meeting you also anticipate a proposal to rezone the adjacent parcels for multifamily condo development and that the condominium plat would be accomplished in tandem with that proposal. You also mentioned possible division of the underlying property apart from the condominium format.

As discussed, this proposal will require a further Code Review submittal, as well as review of a hearing application by the Planning and Zoning Commission and the City Council regarding the related zone change, General Plan amendment, subdivision plat, condominium proposal and Design Review submittals. Off-site improvements may also be required as part of any re-zoning action.

Please review the Cottonwood Zoning Ordinance procedural codes for Zone Changes (Sec. 301); Code Review (Sec. 305); Design Review (Sec. 304); and Planned Area Development (Sec. 424). Other design related codes pertaining to signs, parking, landscaping and lighting are found under Sections 405-408. The subdivision code and condominium requirements are found under Article 8 of the Cottonwood Subdivision Regulations. The zoning ordinance and subdivision regulations are on-line at http://cottonwoodaz.gov/zoningord.php

The following is a process summary which also addresses the zoning necessary for the continued development of these properties as you have described:

- 1) **Administrative Code Review.** Any proposal to rezone and/or further develop the adjacent parcels will require a separate Code Review submittal. An application is required. The fees are \$50. Generally, the Code Review meeting will occur within two weeks of the applications submittal.
- 2) Community Meeting (at least 30 days prior to P&Z). You are required to schedule and facilitate a related community meeting and to summarize public attendance and comment for P&Z. You will also be required to mail notices regarding the related community meeting and hearings to all property owners within 300 feet of the properties. The notices must be postmarked 15 days prior to the meeting. You are also responsible for placement of property postings on-site (15 days prior to community meeting), subject to code specifications in the hearing application. Staff will review proofs for postings, notices and mailing lists prior to use.
- 3) **P&Z Hearing.** A hearing application and fees are also required to be submitted 30 days prior to the P&Z hearing. Fee for the General Plan (minor) amendment is \$1,500. The zoning fees are \$1,000 plus \$35 per acre. In addition there is a \$250 fee for Design Review; and a \$250 fee for the condominium plat. Fees for the subdivision plat (if required) would amount to \$750 plus \$20 per lot.
- 4) **City Council review of P&Z Recommendation.** This is a referral following the P&Z recommendation so there is no additional application or fees. There will be two Council hearings.
- 5) **Site Improvement Permits:** Grading and Building Permits may not be issued nor any site work commenced until 30 days after Council approval of the zoning ordinance. Permit applications may be submitted prior to the end of the 30-day period on an "atrisk" basis, subject to advance written request and Staff approval.
- 6) **Certificate of Occupancy:** Issuance of a Certificate of Occupancy is required prior to use of buildings. Administrative Design Review approval is required prior to issuance of any permits or a C of O. All requirements stipulated as part of the Design Review process must be addressed before the Certificate of Occupancy will be issued.

DEPARTMENT COMMENTS REGARDING CURRENT SUBMITTAL

The following comments are in response to the original condominium proposal for the existing buildings only. Further submittals will be required for development of the adjacent parcels.

Planning – George Gehlert, ggehlert@cottonwoodaz.gov (928)634-5505 x3321

1. Condominium process requires recording of a plat (see Subdivision Ordinance, Sec. 801.00 for complete requirements).

2. Submittal of Disclosure Report also required (per 801.00.C.1). Must be recorded along with the plat and provided to purchasers. Report must detail the condition of the existing buildings and other property improvements and whether they meet building codes, etc. Also includes statement from the Fire Department as to whether the structures meet the fire code; the current accessibility of the site for emergency response; availability and accessibility of fire suppression equipment, barriers, etc. See code for full details.

Yavapai Co. Health Dept. – Robin Oothoudt, robin.eddingfield@co.yavapai.az.us 639-8130

1. No comments.

Public Works - Scott Mangarpan, smangarpan@cottonwoodaz.gov (928)634-5505

1. No comments.

Engineering / Utilities – Troy Odell, todell@cottonwoodaz.gov. (928)634-0186 x3309

1. No adequate turnaround exists for emergency vehicles.

Engineering / Street Maint. – Morgan Scott, mscott@cottonwoodaz.gov. (928) 340-2777

1. Highly recommend the grates to the underground detention and storm drainage be permanently attached to the pipe to keep people out of the pipes.

Fire Department - Rick Contreras, rcontreras@cottonwoodaz.gov (928) 634-2741

- 1. Grade along primary access is too steep.
- 2. Hydrant along north side of existing is not accessible.
- 3. Fire lanes are required.
- 4. Recommend developing new access from 16th Street.
- 5. Recommend installing sprinklers in existing buildings

Police Department – Jody Makuch. jmakuch@cottonwoodaz.gov (928)634-4246

1. No comments.

Building Department- Joe Steinke, jsteinke@cottonwoodaz.gov (928) 634-5505 x3320

1. Must demonstrate one-hour fire separation between all residential units before condominium plat will be considered.

NOTE: All plan submittals shall be through the Community Development Department. Changes to project proposals must be highlighted in writing and attached to the application or they will not be considered approved.

Please submit a written narrative and conceptual site plan which addresses all proposed uses and development before proceeding with further Code Review.

Please contact me if you have any questions.

Sincerely,

George Gehlert

Community Development Director

C: Dan Lueder, Development Services General Manager

Code Review Board Building / DR Files

CASA VERDE CONSULTING PLANNING AND DESIGN

A Division of Baile Luna, Inc. an Arizona Corporation

1800 S. Quail Run Cottonwood, Arizona 86326

Planning Northern Arizona Since 1994

Michael Gardner, Senior Planner Phone/Fax (928) 634-7686 Mobile (928)-399-0003 Email: mikeg@azpermitpushers.com

Wednesday, July 31, 2013

Berrin Nejad, Community Development Manager City of Cottonwood, Arizona 111 N. Main St. Cottonwood, AZ 86326

Re: Skyline Condominiums PAD

Dear Manager Nejad;

In reviewing the requirements for general plan amendments (Cottonwood General Plan 2003-2013, chapter 14, section B.1 – DETERMINING WHEN A PLAN AMENDMENT IS NECESSARY), I am not certain that a plan amendment is necessary, and ask for your determination. A text excerpt from that section follows (emphasis and underlines added):

The Cottonwood General Plan is intended to be responsive to community needs and situations and should be regarded as both flexible and "general" in both the "Proposed Land Use" map and in descriptions of its land use categories. The map is not a zoning map, nor is it parcel specific. The descriptions of various residential land use categories provide for the usual variations in land uses inherent in normal neighborhood development patterns. Nonresidential land use descriptions also provide for a reasonably wide variety of specific development proposals. However, there may be development or land use proposals that are inherently inconsistent with the General Plan, because of their size, intensity, or land use characteristics.

- a. Proposed Amendments: The Community Development Director shall have the responsibility to determine if a specific development proposal is significant enough to require amendment of the General Plan. Factors to be reviewed on a case-by-case basis will include the following:
 - 1) Consistency of the land use proposal with the General Plan land use map, and with narrative goals, objectives and policies.
 - 2) The actual proposed change in land use, including density and intensity.
 - 3) Size and general impact of the land use proposal in relation to existing and anticipated area development patterns.

Chapter 2.9.6 (PLANNING AREA NUMBER 6-COMMERCIAL) of the 1995 Cottonwood General Plan recognizes the specific area and states; <u>certain portions of this area lend themselves to residential development, particularly multifamily. Good views, adequate infrastructure and proximity to commercial services all support additional medium density residential development.</u>

In recognition of higher density development since the 1995 plan, Chapter 8, Section 10, (COMMERCIAL CORE) of the 2003-2013 General Plan states in part;

"Certain portions of this area lend themselves to residential development, particularly multi-family. Good views, adequate infrastructure and proximity to commercial services also support higher density residential development".

The 1995 Cottonwood General Plan designates the subject property as high density residential, while the 2003-2013 General Plan designates it as medium density residential. It is unclear why the designation was changed in this area, as much of the surrounding development is of higher density, and language in the later plan was amended to support higher density development. We believe that the proposed infill planned area development is indeed consistent with the narrative goals objectives and policies contained in the plan.

As the existing apartments on the subject property as well as surrounding land uses are medium and high density residential in nature, the proposed PAD does not anticipate any major change in land-use, and at 13.5 units per acre actually decreases density and intensity of use from that allowed by right on the subject property. The easternmost parcel, designated as commercial on the general plan map, is already partially developed as high density residential, and in its present state is unsuitable for commercial use. Additionally, high density residential is allowed in the C1 zone as a conditional use, one which is rarely denied by the Commission and Council.

As this is a very small infill development that actually reduces the density and intensity of use, the impact of the proposal in relation to existing and anticipated area development patterns is negligible.

Given these factors, it is difficult to understand why this proposal would require a plan amendment. Accordingly, I ask for your consideration in making a determination in this matter. Please do not hesitate to contact me require further information or would like to discuss this further.

Sincerely,

Mike Gardner Senior Planner Casa Verde Consulting, Planning & Design 1800 S. Quail Run

Cottonwood, Arizona 86326

928-399-0003

cc: Stan Graham, Tom Pender encl:



CITY OF COTTONWOOD HEARING APPLICATION

REQUEST TYPE (CHECK ONE)		APPLICATION NUMBER		
□ DRB (DESIGN REVIEW) □ V (VARIANCE / APPEAL) □ PCU (COND. USE PMT □ RCU (CUP REVIEW) □ GP (GEN PLAN AMEND) □ Z (ZONE CHANGE)	□ ZO (ZONING ORD AMND) □ SR (SUBD. CODE AMND) □ PAD (PLND AREA DEVMT) □ PSP (PRELIM SITE PLAN) □ FSP (FINAL SITE PLAN) □ RSP (REV. SITE PLAN)	□ SK (SKETCH PLAN) □ RSK (REV. SKETCH PLN) □ PP (PRELIMINARY PLAT) □ RPP (REV. PRE-PLAT) □ FP (FINAL PLAT) □ RFP (REVISED F.P.) □ AFP (AMENDED F.P.)	(FROM INITIAL CODE REVIEW)	
PROPERTY OWNER			ZONING:	
Name:			APPL, DATE:	
Address:			AFFL. DAIL.	
City:	ST:	ZIP:		
Phone:	Cell:		FEES:	
FAX:	Email:			
THE HEARING PROCESS. CITY STA PROJECT PERSONNEL.	NTATIVE COMMUNICATE WITH CITY STAFF, AND I FF WILL NOT ACCEPT RESPONSIBILITY		RECEIPT #: DATE:	
Name:				
Address:	O.D.	TID.	TAKEN BY:	
City:	ST:	ZIP:		
Phone:	Cell:			
FAX:	Email:			
IDENTIFY ANY NECESSARY CODE EXCEPTIONS:				
ASSESSOR'S PARCE	L NUMBER(S):		Acres	
SITUS ADDRESS (if	applicable)			
II .			lock: Unit:	
☐ Legal description attached (for Metes & Bounds Parcel or for Subdivision Lot Split)				
I hereby certify that the information in this application is complete and accurate; and that I am the applicant or the bona fide agent of same as stated above.				
Signature		Date		

CASA VERDE CONSULTING PLANNING AND DESIGN

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Planning Northern Arizona Since 1994

Michael Gardner, Senior Planner Phone/Fax (928) 634-7686 Mobile (928)-399-0003 Email: mikeg@azpermitpushers.com

REQUESTED CODE EXCEPTIONS:

As this application is for a very small infill planned area development, certain requirements of section 424.D - (MASTER DEVELOPMENT PLAN SUBMITTAL REQUIREMENTS), which outlines the requirements for master development plans of all sizes including those containing multiple use categories such as mixed-use communities and master-planned commercial/industrial PAD's are either not applicable or redundant in the case of a small development such as proposed.

Accordingly, we request relief from those particular sections, specifically;

- 424.D.2.g (Design Guidelines)
- 424.D.2.h (Circulation Standards)
- 424.D.2.j.2and3 (Landscape Standards [graphic details])
- 424.D.2.k and I (Statement Of Water Use/Water Conservation Program)

These code sections are either not applicable to this size of development, or have been previously addressed elsewhere in the submitted PAD master development plan.

Mike Gardner

Senior Planner

Casa Verde Consulting, Planning & Design

1800 S. Quail Run

Cottonwood, Arizona 86326

928-399-0003

1.5" text

City of Cottonwood ZONING HEARING

Request: Zoning Map Change from R-3, R-1 and C-1 to PAD.

Case No.: Z13-015

Assessor's Parcel Numbers: 406-06-029M & 364G, 406-04-040

Site Location: 840/842 S. Main St.

Acreage: 5.49 acres

Applicant: Skyline Apartments, LLC, and Seabourn, LLC

5200 N. Camino Sumo, Tucson, AZ 85718

Date & Time: Planning & Zoning Hearing: October 21, 2013 - 6:00 PM

City Council Hearing: November 5 and November 19, 2013

6:00 PM

P&Z and City Council meetings are held at 6 PM in the City Council Chambers, 826 N. Main Street, Cottonwood, AZ. For more information contact: Community Development Department, 111 N. Main St. (928) 634-5505 ext. 3321

4'-0"

SKYLINE CONDOMINIUMS

SITE DEVELOPMENT DATA

A PORTION OF THE SW 1/4 OF SECTION 2 AND EAST HALF OF SECTION 3, TOWNSHIP 15 NORTH, RANGE 3 EAST, G.&S.R.B.&M., YAVAPAI COUNTY, ARIZONA ASSESSOR'S PARCEL 406-06-364G, 406-06-29M, 406-04-040

PROPERTY OWNER: SKYLINE APARTMENTS, LLC AND SEABOURN, LLC

IN CARE OF STAN GRAHAM, 5200 N. CAMINO SUMO

TUCSON, AZ 85718

SITE ADDRESS: 840 & 842 S. MAIN STREET

PARCEL AREA: 239,144 s.f./5.49 ACRES

CURRENT ZONING: R1, R2, R3, C1

PROPOSED ZONING: PLANNED AREA DEVELOPMENT (PAD)

REQUIRED/PROVIDED LOT AREA PER UNIT: 1500/3230

DWELLING UNITS EXISTING/NEW/TOTAL: 31/43/74

EXPANSION BUILDING AREA/COVERAGE: 30,906 s.f./21.74%

EXPANSION PARKING REQUIRED/PROVIDED: 73/83 SPACES

OPEN SPACE REQUIRED/PROVIDED: 30%/38%

SITE LUMENS ALLOWED: 549,000

Trees Required/Shown: 46/115

SHRUBS REQUIRED/SHOWN: 139/178

AVAIALBLE LANDSCAPED AREA: ~25%

SKYLINE CONDOMINIUMS

AN INFILL PLANNED AREA DEVELOPMENT

Project Narrative

DETAIL OF REQUEST

This proposal is for a small infill Planned Area Development on the east side of 16th Street, approximately 1/10 mile south of Skyline Drive, which is also the alignment of Date Street west of 16th Street.

The subject property (figure 1) is composed of three tax parcels, APN 406-06-364G, and 406-06-029M and 406-04-040, (referred to herein as parcels 364, 029 and 040). These parcels are currently zoned R-3, R-1 and C-1, respectively. Parcel 364 is approximately 1.06 acres, parcel 029 is approximately 2.56 acres and parcel 040 is approximately 1.87 acres, for a total of approximately 5.49 acres. The northern portions of parcels 029 and 040 (approximately 1.75 acres) have previously been developed. The undeveloped portion of the subject property is approximately 3.74 acres.

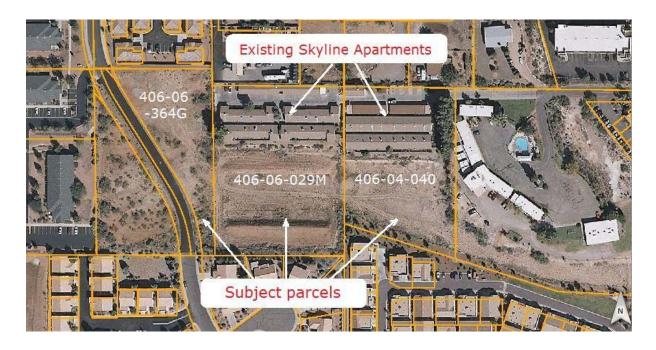


Figure 1

The existing development, on parcels 040 and 029 is currently known as Skyline Drive Apartments, and consists of 31 apartment units occupying approximately 1.75 acres, or approximately 33 percent of the total subject property. Located south of Skyline Drive between 16th Street and Main Street, these units were constructed between 1982 and

1986 and are addressed and currently accessed only from Main Street, via the driveway leading to the View Motel.

Under the proposed plan (figure 2 - see larger size print in exhibits section), the existing apartment units will be converted to condominiums via an airspace condominium plat. Development of the balance of the property is to include 43 new one- and two-story condominium units, ranging in size from 1117 square feet to 1400 square feet livable area, as well as a year-round outdoor community use area.



Figure 2

EXISTING/PROPOSED/DENSITY COMPARISON

ZONING ORDINANCE ALLOWED DENSITIES

Allowed densities across the city's residential zoning classifications within the Zoning Ordinance range from less than 5 to slightly over 29 units per acre, specifically:

- R-1 zone less than 5.8 units per acre
- R-2 zone up to 11.6 units per acre
- R-3 and R-4 up to 29.04 units per acre

GENERAL PLAN ALLOWED DENSITIES

Residential density descriptions within the city's 2003-2013 General Plan are:

- 0.2 to 5 units per acre (low-density)
- 5 to 11 units per acre(medium-density)
- 12 units per acre and above (high-density)

No maximum residential density is specified in the 2003-2013 General Plan. Effective maximum residential density (except as possible under a PAD) is effectively limited by the zoning ordinance at 29 units per acre.

It is worth noting that the residential land use classifications are proposed to change under the General Plan 2015-2025 draft as of this writing as follows:

- 0.2 to 2 units per acre (very low density)
- up to 5.5 units per acre (low-density)
- 6 to 11.6 units per acre (medium density)
- up to 29 units per acre (high density)

The new classifications more closely coincide with zoning ordinance categories, eliminating the "doughnut hole" that existed between the medium and high density classifications.

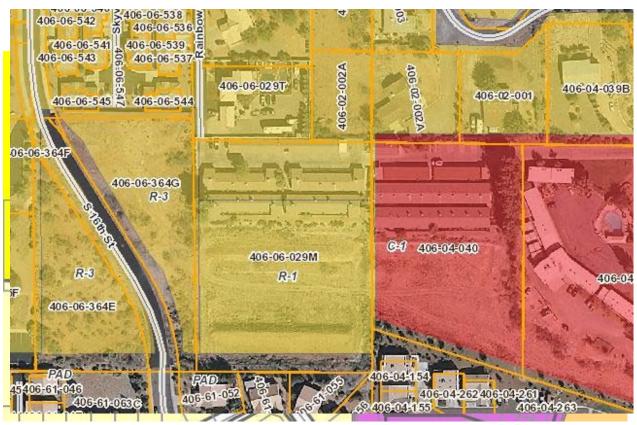


Figure 3

Parcel 364 (figure 3) is currently zoned R-3 and has an area of 1.06 acres, or approximately 46,174 square feet. As the parcel size is greater than 24,000 square feet the minimum lot area per dwelling unit is 1500 square feet, allowing for 30 new dwelling units.

If previously undeveloped, parcel 029, in the R-1 zone with an area of 2.56 acres or 111,513 square feet, would be allowed 14 dwelling units.

Parcel 040, a C-1 parcel at 1.87 acres or 81,457 square feet would, under conditional use permit, be allowed 54 dwelling units, or 39 units above existing.

Under their current zoning, if all parcels were previously undeveloped, with an appropriate use permit, approximately 98 dwelling units would be allowed, for an average density of 17.85 units per acre. However, given that parcel 029 is already developed with 16 units, given the build-out scenario described in the next section, the number of actual dwelling units could be 109. The actual density of the three developed parcels could end up at approximately 19.85 units per acre.

The existing average density within the existing developed area is approximately 18 units per acre.

The existing allowed gross density for parcel 364 is 29 units per acre.

The existing allowed gross density for parcel 029 is 5.8 units per acre.

The existing allowed gross density for parcel 040 is 29 dwelling units per acre under use permit.

As mentioned above, the existing allowed gross density averaged across the three parcels is 17.85 units per acre.

The proposed overall (gross) density for the PAD is approximately 13.5 units per acre, a reduction of 4.35 units per acre.

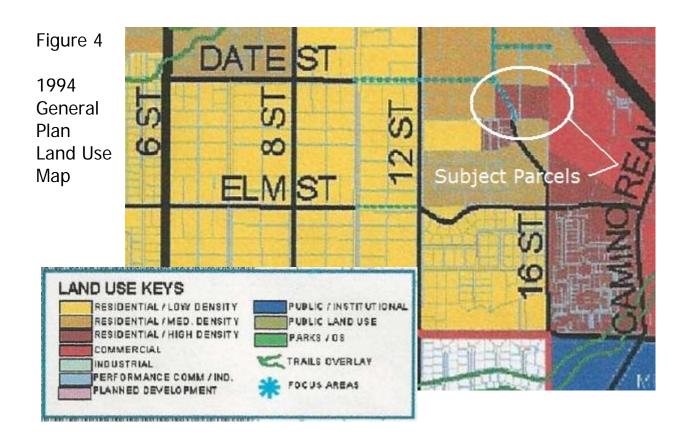
CONFORMANCE AND COMPATIBILITY WITH THE GENERAL PLAN

GENERAL PLAN HISTORY

The first Cottonwood General Plan was developed in 1967. In that plan land use recommendations were very general in nature and no specific current or proposed land use map was offered. No general or specific recommendation for this area or for this particular property was made.

In the 1995 City of Cottonwood General Plan this property was contained within Planning Area number 6 - Commercial (section 2.9.6). That section states in part "The planning area also contains some large tracts of undeveloped land with excellent views suitable for medium and high density development". It also states "certain portions of this area lend themselves to residential development, particularly multifamily. Good views, adequate infrastructure and proximity to commercial services all support additional medium density residential development".

At the time of the 1995 update, parcels 364 and 040 were already partially developed as high density residential, and it is important to note that in the 1995 General Plan parcels 029 and 364 were designated as high density residential (as was the parcel immediately west across 16th Street), while parcel 040 was designated as commercial (figure 4), a land-use category which under zoning code allows for high density residential by use permit.



In the 2003-2013 General Plan update, the subject property was included in the same planning area, now designated Planning Area 10 - Commercial Core. Much of the language from the 1995 plan was retained, but was revised in recognition of nearby higher density projects approved and completed since the 1995 plan update. "Certain portions of this area lend themselves to residential development, particularly multifamily. Good views, adequate infrastructure and proximity to commercial services also support higher density residential development. Verde Vista Apartments was constructed in the mid-1990s west of Wal-Mart. Other residential subdivisions include Crestview and the Cottonwood Commons / Cottonwood Square project adjacent to Mingus Union High School".

The 2003-2013 update specifically recognized properties adjacent to the subject property as high density, and again mentions <u>"adequate infrastructure and proximity to commercial services"</u> as supporting higher density residential development. However,

for reasons as yet undiscovered, parcels 029 and 364 are now designated on the land use map as medium density residential, while parcel 040 remains designated as commercial (figure 5).

In speaking with Berrin Nejad, Community Development Manager and Charles Scully, Long-Range Planner, it appears likely that these three parcels will again be designated high density residential within the 2015-2025 General Plan, and proposed draft language in the land-use element (now designated area 9 - Central Commercial Corridor) supports that designation (emphasis added):

"Multi-unit residential development should be considered for nearby properties.
Where there is adequate infrastructure, potential for pedestrian links and proximity
to commercial services, then higher density residential development could be
appropriate.

- 1. Consider redevelopment opportunities for older shopping centers, including additional freestanding development, façade improvements, multi-story additions, mixed use and improved connections to surrounding development.
- <u>2. Consider additional multi-unit residential opportunities in nearby areas and provide improved pedestrian network to those residential areas".</u>

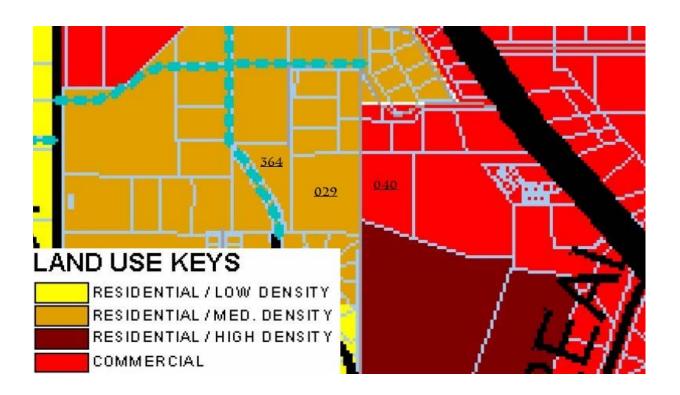


Figure 5 2003-2013 General Plan Land Use Map

COMPATIBILITY WITH GENERAL PLAN VISION, GOALS AND OBJECTIVES

Although the general plan land use map designation has changed from high density to medium density, and appears to be changing to high density again, the language within the two previous plan updates has remained consistent, supporting higher density residential development in this area. And while commercial designation within the general plan makes no mention of residential uses, the zoning ordinance has always taken into account the possibility of residential development within the C-1 zone in conformance with R3 standards.

While Arizona statute does not require cities or towns under 50,000 population to include a housing element within their general plans, Cottonwood nonetheless included such a section, based on the City of Cottonwood Housing Strategy adopted March 19, 2002. The general plan emphasizes the correlation between quality employment and quality housing and specifically how quality homeownership opportunities attract quality employment opportunities. The City of Cottonwood has adopted the following housing policy statement:

"The community's success in economic diversification and job creation is directly linked to housing availability and quality. To ensure the economic viability of Cottonwood, the City in partnership with other public or private agencies, shall strive to maintain and foster an environment where a variety of quality housing opportunities are available for all socioeconomic levels and age groups. The City of Cottonwood shall aggressively pursue various grant, loan, and technical assistance programs aimed at ensuring a balanced mix of quality and affordable housing and addressing the critical housing conditions of the community".

Additionally, the housing element of Cottonwood General Plan places high value on homeownership and encourages new opportunities in that regard (emphasis added):

"The Cottonwood Housing Strategy recognizes that a sense of community often comes with the pride of homeownership. While the 1990s were a time of economic prosperity for many, in Cottonwood the homeownership rate actually declined. The declining homeownership rate can be attributed to many factors. Among these factors are a high rate of population growth leading to increased demand, the development of mostly moderately and higher-priced single family housing, the development of rental opportunities primarily for lower-income households, and income growth that did not keep pace with housing costs. Given the declining homeownership rate and current land use plans, increasing the homeownership rate in Cottonwood is the primary goal of the Cottonwood Housing Strategy.

Achieving an increased homeownership rate requires multiple strategies. Key strategies in Cottonwood include promoting multi-family homeownership opportunities in order to take advantage of current zoning and economies of scale, ensuring that adequate land is zoned for manufactured housing, and identifying mechanisms to encourage in-fill development and neighborhood revitalization".

The proposed planned area development will provide additional homeownership opportunities as envisioned by the General Plan.

STREETSCAPE/VIEWSCAPE COMPARISON

Under current zoning, parcel 364 (R-3), fronting 16th Street, could develop by right with up to 30 dwelling units, most likely apartment units, and given the shape of the parcel as well as parking, landscaping, open space, and right-of-way requirements these would almost certainly be two or 2 1/2-story. This would necessarily result in a "wall" of two-story apartments immediately along 16th Street. The current proposal would place 13 units in this area.

Without a zone change, parcel 029 (R-1), the northern quarter or so of which is already developed, would likely have to be developed as a small subdivision of eight or nine minimum sized lots for single-family homes. With a minor lot line adjustment the parcel could be made to abut 16th Street and the undeveloped 1.5 acres could be divided from the developed northern portion. The current proposal would place 20 units in this area.

Parcel 040 (C-1), the northern part of which is also developed, is generally unsuitable for typical commercial uses given its location and access, and would likely develop under use permit as approximately 29 more apartments, again, likely two-story+ structures. If, because of neighborhood opposition a use permit was not granted by the city, this approximately one acre vacant area would somehow need to develop commercial uses that would be accessed through the Skyline Drive Apartments' existing driveway, an option that makes little sense. The current proposal would place 10 units and a community use facility in this area.

As can be seen, if allowed to develop under current zoning, the ultimate build-out of these parcels might easily result in an un-interesting, inconvenient and incompatible mishmash of land uses, with a few single-family homes wedged in a sort of "canyon" between two high-rise apartment complexes. Homeownership opportunities would likely exist only on the low-density center parcel, and high density apartment complexes would certainly be out of character with the existing neighborhood. Access to and between parcels would continue to be poor and fragmented.

Under the proposed planned area development, overall density would be reduced by more than 24 percent and spread evenly across the development. Additionally, a lower, more diverse streetscape and building profile would be presented along 16th Street, and indeed, throughout the entire site. An area of consistent, compatible residential development will blend with the existing neighborhood and complement rather than compete with existing neighborhood character. When completed, the overall appearance of this development, from outside and from within will be far superior to that possibility described above. Cohesive building and landscape design will present a pleasing and well-planned overall look not possible under the current zoning.

OPEN SPACE/LANDSCAPE/STREETSCAPE IMPROVEMENTS

Open space areas other than patios and walkways will be generously landscaped using water efficient trees and plants combined with diverse hardscape elements including large and medium native boulders, and varying types and colors of rock and gravel groundcovers. Given the continuing need for water conservation, no water features of any type are planned. High quality artificial turf products will be utilized in areas shown as turf on the accompanying landscape plan.

The streetscape along 16th Street will be enhanced by the generous use of various sized evergreen and deciduous street trees and landscape shrubs, strategically located so as to provide shade, unit privacy, and to effectively break up the outline of grouped units. Interior streetscapes will receive similar treatment, as will the community use area, again enhancing shade and privacy.

A greater proportion of evergreen trees and shrubs will be utilized around the project perimeter in order to provide screening and buffering from surrounding developed properties.

DEVELOPMENT STANDARDS

The proposed development meets or exceeds all applicable development standards of the R3 zoning classification, as follows:

Minimum lot area requirement per unit is 1500 square feet. 3230 square feet per unit is provided.

Usable open space requirement is 30%. Plan provides 38% open space.

Maximum lot coverage is 40%. Proposed lot coverage is 21.74%.

Minimum required front yard setback is 15 feet. Minimum proposed front setback is 17 feet. Minimum required side yard setback is 5 feet. Minimum proposed side setback is 12 feet. Minimum required rear yard setback is 15 feet. Minimum proposed rear setback is 24 feet.

Minimum required two and three-bedroom dwelling sizes are 650 and 750 square feet, respectively. Proposed minimum two and three-bedroom dwelling sizes are 1117 and 1400 square feet, respectively.

Maximum building height is 2 1/2 stories or 35 feet. Proposed maximum building height is approximately 26 feet.

Minimum new unit parking requirement is 73 spaces. 83 spaces are provided.

INFRASTRUCTURE

Utility infrastructure, including power, water, sewer, natural gas, telephone and ISP necessary to serve the proposed development exist on or at the boundary of the subject property. Road infrastructure (16th Street) exists in place and improvements based on requirements of the zoning ordinance as well as those identified in a traffic impact analysis (TIA), if required, will be constructed during phase A of the development.

DESIGN GUIDELINES

ARCHITECTURE/COLORS/MATERIALS

While attempting to match the architectural style and features of the existing blockstyle apartments constructed in the 80s would be impractical, the proposed architecture nonetheless is based on the simplicity of design of those units.

Offset roof lines with gabled ends will utilize architectural shingles of complementary



color to the existing units. Offset building design avoids large massed areas, and exterior stucco in several muted colors complementing the original buildings will be utilized on exterior walls, patio and site walls, as well as the community use structures.

Exterior trim colors will complement the new stucco colors as well as the original building trim. Complete graphic representations of the new buildings are contained in the exhibits section.





Figures 6a, b, and c Exterior Elevations

CIRCULATION/INTERIOR STREETS

Site access and circulation within the existing developed area is poor, with only a single access via a shared driveway with the View Motel off of Main Street. Given the intensity of traffic on Main Street at the site entrance, left turns in and out of the property are difficult at best, and dangerous at worst. During peak hours the existing driveway is effectively reduced to a right in-right out access point. Under this development plan, site access and circulation will be dramatically improved with the new access to 16th Street. Residents will be able to effectively access Fir Street via 16th Street, and access to the west side of town will greatly enhanced.

Existing emergency vehicle access to the existing Skyline Apartments is challenging, especially for larger fire trucks due to the steep grade of the existing driveway as well as a sharp grade break near the top of the driveway. This condition is proposed to be corrected as part of the master development plan. Emergency access to both the existing and new portions of the development will be available from both Main Street and 16th Street

Interior roadways will be privately maintained by the homeowners Association under a separate maintenance fund. Roadways and parking areas will be surfaced with two inch asphaltic concrete which will be regularly maintained, seal coated and striped as needed.

EXTERIOR SITE LIGHTING

All exterior building and site lighting will be designed to complement building architecture and will be compliant with section 408 (outdoor lighting code) of the Zoning Ordinance. No tall outdoor lighting standards will be utilized, and parking area lighting will be fully shielded bollard-style. Special care will be taken to eliminate any off-site light spill.

PROJECT OBJECTIVES

The purpose and objectives of this PAD application are several, including:

- 1. To apply economical, innovative and efficient land use and improve available amenities using existing infrastructure, using creative design compatible with surrounding land uses.
- 2. To average residential density over the entire parcel in an effort to remedy an unusual and difficult combination of existing zoning and avoid haphazard development on the subject parcels.
- 3. To provide a compatible development that complements surrounding land uses.
- 4. To recognize and implement concepts and design features consistent with the Cottonwood General Plan visions, goals, and objectives, including improving land

use patterns, to increase and provide improved circulation patterns and emergency access, and to provide enhanced affordable housing and homeownership opportunities.

PROJECT SUMMARY/CONCLUSIONS

In summary, the proposed infill planned area development will provide 43 new condominium units in conjunction with the 31 existing apartment units which are to be converted to condominiums. The 74 total units on 5.49 acres will result in a density of just under 13.5 dwelling units per acre, which is at the low end of the high density residential designation.

The proposed PAD will allow for consistent site design and density averaging over the entire property, and will reduce overall density by more than four units per acre. Consistent architectural design, varied unit design and use of existing terrain features will provide for a pleasing aesthetic along 16th Street and throughout the development.

The proposal also provides enhanced affordable homeownership opportunities through the use of condominium units as opposed to apartments.

Innovative site design incorporating the existing development and utilizing its access will provide safe, new and important transportation links for drivers, pedestrians, and cyclists, while providing superior emergency access

The combination of reduced density, good site and architectural design and pleasing landscaping will necessarily benefit and be compatible with the existing surrounding neighborhood.

A Division of Baile Luna, Inc., an Arizona Corporation

1800 S. Quail Run Cottonwood, Arizona 86326

Planning Northern Arizona Since 1994

Michael Gardner, Senior Planner Phone/Fax (928) 634-7686 Mobile (928)-399-0003 Email: mikeg@azpermitpushers.com

NEIGHBORHOOD MEETING SUMMARY Skyline Condominiums PAD Thursday, August 15, 2013 Mingus Mountain Room, Cottonwood Recreation Center 5:30 to 6:30 PM

On Wednesday, August 31, the City of Cottonwood Community Development Department mailed notices of the neighborhood meeting mentioned above to those property owners within 300 feet of the subject property. A list of those persons mailed to is contained herein. The notification and information mailed to these property owners contained information supplied by Casa Verde Consulting and a copy of that information is included herein.

The meeting was held in the Mingus Mountain Room of the Cottonwood Recreation Center, and clear signage was posted directing attendees to that room. The room was open from 5:00 PM until 6:30 PM. At approximately 5:25 PM Mrs. Pamela Pratt of 1125 E. Crestview Circle arrived along with a companion that declined to sign in. At approximately 5:30 PM Mrs. Vikki Church of 755 S. Rainbow Trail arrived. Also attending were Berrin Nejad, Community Development Manager and Scott Ellis of the City of Cottonwood Community Development department. A copy of the sign in sheet is included herein. No other property owners or interested citizens attended.

Attendees were given an informational handout and a questionnaire regarding the proposed project. The informational handout contains substantially the same information as contained in the mailed notifications, but also included preliminary elevation sketches of the proposed condominium buildings.

At approximately 5:35 PM I began the meeting with a brief description of the current zoning and general plan classifications of the property, and a brief overview of the proposed development including the number of units proposed, the number of units currently allowed under the existing zoning, the change in traffic circulation, etc. After this brief introduction, I invited discussion and questions from the attendees.

Mrs. Church, Mrs. Pratt and her companion had specific questions regarding property ownership, traffic and circulation, appearance of the buildings, grading, landscaping, etc. Discussion also included the manner in which traffic would enter and exit the property, specific screening and landscaping questions, and the perceived impact of traffic on 16th Street.

Mrs. Pratt and her friend completed questionnaires and submitted them at the end of the meeting. Mrs. Church mailed hers to our office the next day. All attendees were provided with

contact information for our firm and for Community Development Manager Berrin Nejad. They were also informed that the tentative hearing dates included in the information packets would likely change and that current information regarding the dates of hearings would be clearly posted on the subject property in advance of those hearings.

With no further questions or discussion indicated, I concluded the meeting at approximately 6:25 PM.

PROXIMITY OF RESPONDENTS TO THE SUBJECT PROPERTY

A map indicating the location of the respondents' residences is included herein. As Mrs. Pratt's friend did not provide her name and address, her location is not shown on the map, however she indicated that her residence is approximately 300 feet from the subject property.

SUMMARY OF QUESTIONNAIRE COMMENTS

Both Mrs. Pratt and her friend cited increased traffic on 16th Street. as their only concern with the proposed project. Mrs. Pratt felt that a traffic light on Main Street at the entrance to the View Motel would be an improvement to the proposed project. Mrs. Church had no major concerns and indicated that she was happy for the homeownership opportunities afforded by the proposal. All respondents indicated that they own rather than rent their residences. A copy of the completed questionnaires is included herein.

Mike Gardner

Senior Planner

Casa Verde Consulting, Planning & Design

1800 S. Quail Run

Cottonwood, Arizona 86326

928-399-0003

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Michael Gardner, Senior Planner Phone/Fax (928) 634-7686 Mobile (928)-399-0003 Email: mikeg@azpermitpushers.com

> NEIGHBORHOOD MEETING QUESTIONNAIRE Skyline Condominiums Neighborhood Meeting Cottonwood Recreation Center, Mingus room August 15, 2013, 5:30 PM

PRATT 406-61-058

Thank you for attending. Following is a brief questionnaire regarding this rezoning application. Your answers will become part of the public record and will be considered by the Planning and Zoning Commission and City Council at their regular meetings of October 21 (P& Z), November 4 and November 18th (City Council).

le (only country).
After reviewing the mailed notice or handout information, what is your first impression of the proposed
planned area development? AROBUTYS WITH TRAFFIC ON
16TH ST WITH PROPOSED DEVELOPHENT
The proposed PAD will reduce the allowed unit density along 16th St. from 30 units to 13 units, and
overall density by over 20%, and will provide home ownership opportunities in the form of condos versus
apartments. In your opinion, what other improvements could be made by the planners or the City to
enhance this development? TRAFFIC LIGHT ON MAINST DOWN FROM
VIEW MOTEL
If you own or rent a home nearby;
Approximately how close do you live to the subject property? OND DAIJE PARKTY 300 -1
Approximately how close do you live to the subject property? OND DAIJE PROPETY 300 - CONFEST VIEW CIRCLE 300 - 400 FT
Citis via ances are quell
How do you perceive development of this property as proposed will affect you and your property? NO AFFECT EXCEPT MAFFICE ISSUES ON 16TH ST.
Your own comments, please:
If you own or rent commercial property nearby;
Approximately how close is your property or business to the subject property?
How do you perceive development of this property as proposed will affect you and your property?
Your own comments, please:
I (circle one) (own) rent my homesor business.

Additional written or oral comments or questions may be addressed to Berrin Nejad, Community Development Manager, 111 N. Main St., Cottonwood, 86326. (928) 634-5505, extension 3321

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After reviewing the mailed notice or handout information, what is your first impression of the proposed planned area development?
The proposed PAD will reduce the allowed unit density along 16th St. from 30 units to 13 units, and overall density by over 20%, and will provide home ownership opportunities in the form of condos versus apartments. In your opinion, what other improvements could be made by the planners or the City to enhance this development?
If you own or rent a home nearby;
Approximately how close do you live to the subject property?
How do you perceive development of this property as proposed will affect you and your property? Traffic will be posendous. Your own comments, please: With the Villas on Elm
If you own or rent commercial property nearby;
Approximately how close is your property or business to the subject property?
How do you perceive development of this property as proposed will affect you and your property?
Your own comments, please:
I (circle one) own rent my home or business.
Additional written or oral comments or questions may be addressed to Berrin Neiad. Community

Development Manager, 111 N. Main St., Cottonwood, 86326. (928) 634-5505, extension 3321

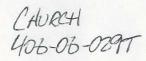
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Thank you for attending. Following is a brief questionnaire regarding this rezoning application. Your answers will become part of the public record and will be considered by the Planning and Zoning Commission and City Council at their regular meetings of October 21 (P& Z), November 4 and November 18th (City Council).

After reviewing the mailed notice or handout information, what is your first impression of the proposed planned area development? <u>SEEMED LIKE A NICE DEVELOPMENT AND</u> WE LIKED OWNERSHIP VERSUS APARTMENTS.

The proposed PAD will reduce the allowed unit density along 16th St. from 30 units to 13 units, and overall density by over 20%, and will provide home ownership opportunities in the form of condos versus apartments. In your opinion, what other improvements could be made by the planners or the City to enhance this development? <u>IM NOT SURE OF ANY SUGGESTIONS THAT COULD BE OFFICED BUT WEARE GLAD FOR THE LOWER DENSITY.</u>

If you own or rent a home nearby,

Approxima	itely how	close do you live	to the subject property	? our	PROPERTY	Touchs
THE	16TH	STREET	PARCEL			

How do you perceive development of this property as proposed will affect you and your property?

WNCERTAIN THE EFFECT EN OUR PROPERTY VALUE BUT BETTER THAT THEY ARE CONDO'S NOT APARTMENTS.

Your own comments, please:

If you own or rent commercial property nearby;

Approximately how close is your property or business to the subject property?

How do you perceive development of this property as proposed will affect you and your property?

Your own comments, please:

Your own comments, please:

I (circle one) own rent my home or business.

Additional written or oral comments or questions may be addressed to Berrin Nejad, Community Development Manager, 111 N. Main St., Cottonwood, 86326. (928) 634-5505, extension 3321

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NEIGHBORHOOD MEETING NOTICE SKYLINE CONDOMINIUMS P.A.D.

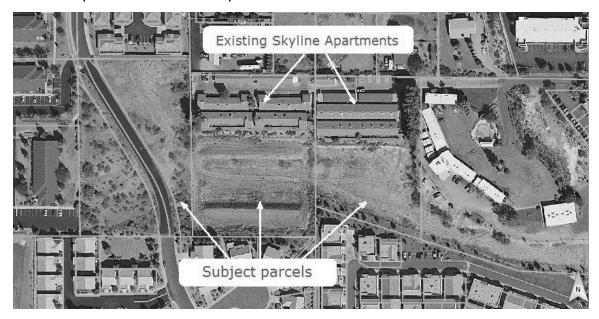
A PLANNED AREA DEVELOPMENT

Dear neighbors and interested residents;

This is to inform you that the Skyline Apartments, LLC owners will make application for a minor general plan amendment and zoning map change for the existing apartment complex as well as the vacant land south and west of the apartments, also owned by them. You are receiving this notice because your property is within 300 feet of the subject property. Additionally, this is to let you know that a brief informational neighborhood meeting will be held in the Mingus Room of the Cottonwood Recreation Center, located at 150 S. 6th Street on August 15th, 2013 from 5:30 to 6:30 PM.

SUBJECT PROPERTY

The property lies between north of Elm Street between Main Street and 16th Street, directly west of the View Motel and consists of three separate parcels, shown on the map below. The existing apartment complex lies on the northern portion of the two easterly parcels. The western parcel is undeveloped.

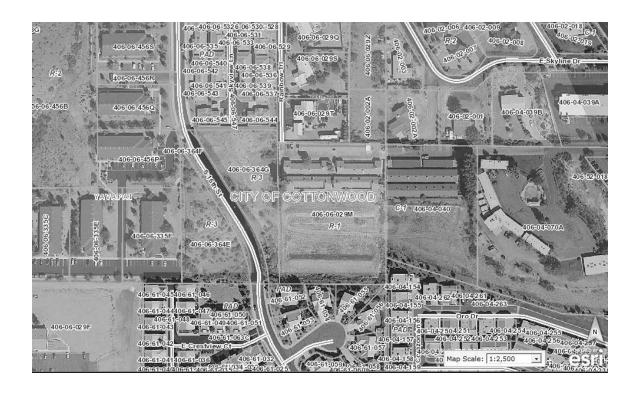


ZONING REQUEST OVERVIEW

The zoning map change application is for an infill planned area residential development (P. A. D.)

There are several reasons for this zoning map change request.

First, the existing zoning of these parcels is mixed between R1, R2, R3, and C1 (low, medium, and high density residential, and commercial zones). The eastern section of Skyline Apartments (those nearest the View Motel) actually lies on a commercially zoned parcel. See the map below.



Secondly, the existing Skyline Apartments are slated to be converted to condominiums in the not so distant future, and the PAD zoning is intended to consolidate and simplify ownership of the common areas under a homeowners association.

Thirdly, the property owners anticipate developing the balance of the vacant property in the future as demand for new, compact residential units increases. Under the plan (shown on page 4), the three parcels would be combined into a single property and 43 new one, two, and three-bedroom condominiums would be eventually be constructed in phases as dictated by demand.

Finally, the property owners wish to consolidate and plan the property as shown for their own estate planning purposes.

EXISTING ZONING

As mentioned above, the existing zoning for these three parcels is mixed, due to the original city zoning and presumably some zoning changes in the distant past. The commercial zone, in which the eastern portion of the Skyline Apartments lies, was likely intended for some future expansion of the View Motel. However, since the first Skyline Apartments were constructed in 1982, the remaining commercial zoning makes little sense for commercial use, as all access would be through the View Motel and Skyline Apartments driveways. Additional apartment units could be constructed under use permit at the R3 density of 29 units per acre, allowing 39 new apartment units on this parcel.

The central parcel, containing those units built in 1986, is zoned R2 on the north portion presumably for the construction of the apartments, and R1 on the south portion. Under current zoning, eight single-family homes would be allowed in this area.

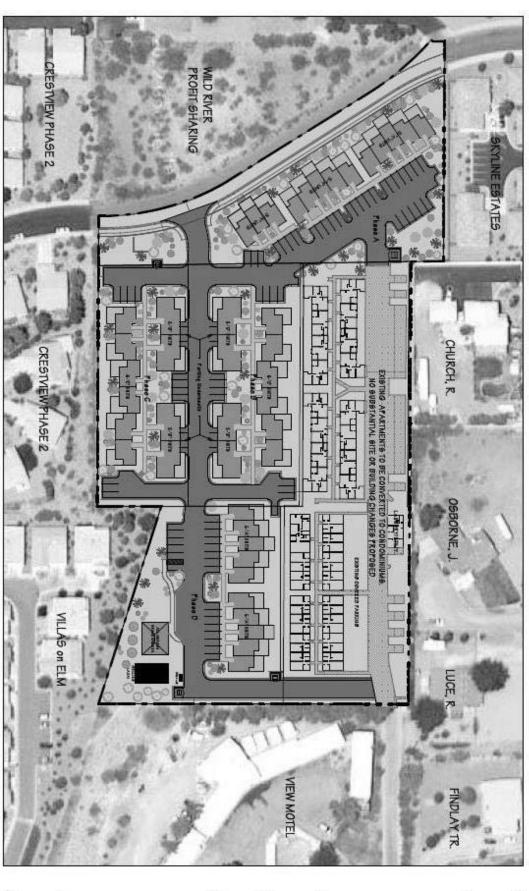
The westerly parcel is zoned R3, a high-density zoning allowing 29 units per acre, or total of 30 units on this parcel.

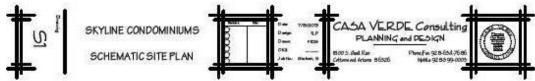
As you can see, under the current zoning, approximately 77 new units could be constructed, with eight single-family homes sandwiched between two high-rise, high density apartment complexes. Obviously, this would not be the best land use in this neighborhood.

PROJECT OVERVIEW

Under the proposed planned area development, 43 new well-planned, one and two-story condominiums would be developed, including a community use area available to all residents within the development. Additionally, under this plan, access would be available both from Main Street and from 16th St., providing more convenient traffic circulation as well as enhanced access for emergency services.

Overall density would be considerably reduced from that currently allowed, and a cohesive architectural theme would result in a development much more suited to the existing neighborhood. 30 two-story apartments along 16th St. would be replaced by 13 mixed one and two-story condominiums in three separate building modules, presenting a much more pleasant streetscape. Off street parking will be mostly hidden from street view, and low-water trees and landscaping will provide attractive screening.





As a neighboring property owner, your comments and input regarding this proposal are welcome and important to us. Please plan to attend our neighborhood meeting on the 15th. Your involvement in the public planning process is important.

If you would like more information regarding this application and the public hearing process, please contact Berrin Nejad, Community Development Manager, at the City of Cottonwood Development Services building, 111 N. Main St., or by phone at 928-634-5505.

Thank you for your time and attention.

Mike Gardner, Senior Planner

Casa Verde Consulting, Planning & Design

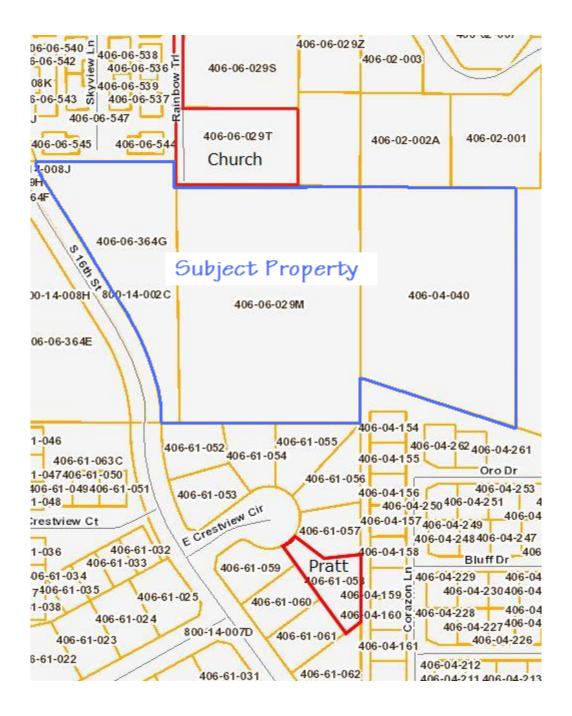
1800 S. Quail Run

Cottonwood, Arizona 86326

928-399-0003

SUBNAME	PARLABEL	NAME	ADDRESS	CITY	STATE	ZIP
CRESTVIEW SUBDIVISION PHASE 2	406-61-034	EPRIGHT FRANK H REVOCABLE LIVING T	R 1475 E CRESTVIEW CT	COTTONWOOD	ΑZ	86326
CRESTVIEW SUBDIVISION PHASE 2	406-61-035	WHITE-COLLIER MICHELLE M	1701 E CYPRUS ST	COTTONWOOD	ΑZ	86326
VILLAS ON ELM	406-04-230	PUCKETT JUDITH E	PO BOX 665	COTTONWOOD	ΑZ	863260665
VILLAS ON ELM	406-04-229	FUENTES ROLANDO AND NEMESIA RS	1655 BLUFF DR	COTTONWOOD	ΑZ	86326
CRESTVIEW SUBDIVISION PHASE 2	406-61-036	GOODNATURE MARY M	926 SARGENT ST	SAN FRANCISCO	CA	94132
VILLAS ON ELM	406-04-225	HAYNES KATHRYN	1887 N RUSTLER TRL	CAMP VERDE	ΑZ	86322
VILLAS ON ELM	406-04-227	CHICAGO TITLE INS TR # 36011	270 N EL CAMINO REAL STE F-0	ENCINITAS	CA	920242874
CRESTVIEW SUBDIVISION PHASE 2	406-61-060	TITUS NANCY M	915 S SIXTEENTH ST	COTTONWOOD	ΑZ	86326
VILLAS ON ELM	406-04-242	EDWARDS NICHOLAS E	1770 E VISTA DE MONTANA	COTTONWOOD	ΑZ	86326
CRESTVIEW SUBDIVISION PHASE 2	406-61-061	COLODNER LINDA ANN	925 S SIXTEENTH ST	COTTONWOOD	ΑZ	86326
VILLAS ON ELM	406-04-233	MCDANIEL CYNTHIA LYNN TRUST	240 CALLE PORTILLA	CAMARILLO	CA	93010
VILLAS ON ELM	406-04-226	CARANGI ROBERT T & KELLIE RS	1248 FOREST AVE	SIMI VALLEY	CA	930655288
VILLAS ON ELM	406-04-258	GLOBERMAN FAMILY REVOCABLE LIVING	3 421 REED CT	GOLETA	CA	93117
CRESTVIEW SUBDIVISION PHASE 2	406-61-037	GOODNATURE MARY M	926 SARGENT ST	SAN FRANCISCO	CA	94132
CRESTVIEW SUBDIVISION PHASE 2	406-61-043	MOORE KENNETH & MARY E JT	219 MIDWAY	PRESCOTT	ΑZ	863055048
VILLAS ON ELM	406-04-224	COMBS TIMOTHY P TRUST	1531 GINA DR	OXNARD	CA	93030
VILLAS ON ELM	406-04-241	DULA GAYLE A & VICTOR RS	166 INNER CIRCLE DR	DES PLAINES	IL	600162238
VILLAS ON ELM	406-04-160	COZART GLEN L & CINDY RS	6201 KLUSMAN AVE	RNCHO CUCAMONG	CA	91701
CRESTVIEW SUBDIVISION PHASE 2	406-61-025	BROOKMAN MARIAN S 1993 REVOCABL	E PO BOX 3682	SEDONA	ΑZ	86340
VILLAS ON ELM	406-04-263	VILLAS ON ELM HOMEOWNERS ASSOC (TPO BOX 25466	TEMPE	ΑZ	852855466
CRESTVIEW SUBDIVISION PHASE 2	406-61-044	HUFFMAN DEBRA L	868 S CRESTVIEW CT	COTTONWOOD	ΑZ	86326
CRESTVIEW SUBDIVISION PHASE 2	406-61-063C	CRESTVIEW RIDGE HOA	1360 E RIDGE VIEW DR	COTTONWOOD	ΑZ	86326
	406-06-456S	CHRISTIAN CARE COTTONWOOD V INC	2002 W SUNNYSIDE DR	PHOENIX	ΑZ	85029
HILLCREST VILLA	406-02-009	GLAZAR FAMILY REVOCABLE TRUST	275 E SHADOW RIDGE RD	COTTONWOOD	ΑZ	86326
SKYLINE ESTATES	406-06-534	CONAWAY MICHAEL J	5529 SUNFIELD AVE	LAKEWOOD	CA	90712
HILLCREST VILLA	406-02-008	GLAZAR FAMILY REVOCABLE TRUST	275 E SHADOW RIDGE RD	COTTONWOOD	ΑZ	86326
	406-06-029T	CHURCH RICHARD H & VIKKI V	735 S RAINBOW TRL	COTTONWOOD	ΑZ	863266367
	406-06-029Q	GILLIAM STEVEN J & JUDY M RS	755 S RAINBOW TRL	COTTONWOOD	ΑZ	863266367
	406-06-029S	SCHRADER NORMAN & DARLENE REVOC	745 S RAINBOW TRL	COTTONWOOD	ΑZ	86326
SKYLINE ESTATES	406-06-530	RINKER DANIEL A & VIRGIE M RS	725 SKYVIEW LN	COTTONWOOD	ΑZ	86326
	406-06-029Z	ALLRED SANDRA B	1605 E SKYLINE DR	COTTONWOOD	ΑZ	86326
HILLCREST VILLA	406-02-003	ALLRED SANDRA J	1605 E SKYLINE	COTTONWOOD	ΑZ	86326
HILLCREST VILLA	406-02-007	GLAZAR FAMILY REVOCABLE TRUST	275 E SHADOW RIDGE RD	COTTONWOOD	ΑZ	86326
	406-04-039A	THEKEDAR ENTERPRISES LLC	800 S MAIN ST	COTTONWOOD	ΑZ	86326
SKYLINE ESTATES	406-06-532	TURNER BRIAN L	PO BOX 831	COTTONWOOD	ΑZ	86326
	406-06-335F	CHRISTIAN CARE COTTONWOOD IV INC	3003 N CENTRAL # 2600	PHOENIX	ΑZ	85012
	406-06-456R	CHRISTIAN CARE COTTONWOOD V INC	2002 W SUNNYSIDE DR	PHOENIX	ΑZ	85029
CRESTVIEW SUBDIVISION PHASE 2	406-61-058	PRATT RALPH E & PAMELA	1625 E CRESTVIEW CIR	COTTONWOOD	ΑZ	86326
	406-06-335E	CHRISTIAN CARE COTTONWOOD III INC		PHOENIX	ΑZ	85029
	406-04-070A	VERDE VALLEY DEVELOPMENT CO	818 S MAIN ST	COTTONWOOD	ΑZ	86326

CRESTVIEW SUBDIVISION PHASE 2	406-61-045	CULVER FAMILY TRUST	860 S CRESTVIEW CT	COTTONWOOD	ΑZ	86326
SKYLINE ESTATES	406-06-547	SKYLINE VIEW ESTATES HOMEOWNERS A	PO BOX 2228	COTTONWOOD	ΑZ	86326
SKYLINE ESTATES	406-06-528	KNIPSCHILD FAMILY TRUST	PO BOX 34055	RENO	NV	89533
	406-06-456P	CHRISTIAN CARE COTTONWOOD V INC	2002 W SUNNYSIDE DR	PHOENIX	ΑZ	85029
	406-06-456B	JACKSON INVESTMENT PROPERTIES LLC	818 S MAIN ST	COTTONWOOD	ΑZ	86326
VILLAS ON ELM	406-04-234	HOFFMAN DAVID R & KATHY V RS	1745 BLUFF DR	COTTONWOOD	ΑZ	863268947
CRESTVIEW SUBDIVISION PHASE 2	406-61-024	BUTAK GERALD W &	1496 E CRESTVIEW DR	COTTONWOOD	ΑZ	86326
HILLCREST VILLA	406-02-006	GLAZAR FAMILY REVOCABLE TRUST	275 E SHADOW RIDGE RD	COTTONWOOD	ΑZ	86326



A Division of Baile Luna, Inc., an Arizona Corporation

1800 S. Quail Run Cottonwood, Arizona 86326

Planning Northern Arizona Since 1994

Michael Gardner, Senior Planner Phone/Fax (928) 634-7686 Mobile (928)-399-0003 Email: mikeg@azpermitpushers.com

SKYLINE CONDOMINIUMS

A PLANNED AREA DEVELOPMENT NEIGHBORHOOD MEETING AUGUST 15, 2013 - 5:30 PM

Good evening neighbors and interested residents;

You are here this evening because you've either heard or been notified by the City of Cottonwood that the Skyline Apartments, LLC owners have applied for zoning map change for the existing apartment complex as well as the vacant land south and west of the apartments, also owned by them. The property consists of three separate parcels, shown on the map below. The existing apartment complex lies on the northern portion of the two easterly parcels. The western parcel is undeveloped.

SUBJECT PROPERTY

The property lies between north of Elm Street between Main Street and 16th Street, directly west of the View Motel and consists of three separate parcels, shown on the map below. The existing apartment complex lies on the northern portion of the two easterly parcels. The western parcel is undeveloped.



ZONING REQUEST OVERVIEW

The zoning map change application is for an infill planned area residential development (P. A. D.)

There are several reasons for this zoning map change request.

First, the existing zoning of these parcels is mixed between R1, R2, R3, and C1 (low, medium, and high density residential, and commercial zones). The eastern section of Skyline Apartments (those nearest the View Motel) actually lies on a commercially zoned parcel. See the map below.



Secondly, the existing Skyline Apartments are slated to be converted to condominiums in the not so distant future, and the PAD zoning is intended to consolidate and simplify ownership of the common areas under a homeowners association.

Thirdly, the property owners anticipate developing the balance of the vacant property in the future as demand for new, compact residential units increases. Under the plan (shown on page 4), the three parcels would be combined into a single property and 43 new one, two, and three-bedroom condominiums would be eventually be constructed in phases as dictated by demand.

Finally, the property owners wish to consolidate and plan the property as shown for their own estate planning purposes.

EXISTING ZONING

As mentioned above, the existing zoning for these three parcels is mixed, due to the original city zoning and presumably some zoning changes in the distant past. The commercial zone, in which the eastern portion of the Skyline Apartments lies, was likely intended for some future expansion of the View Motel. However, since the Skyline Apartments were constructed in 1982, the remaining commercial zoning makes little sense for commercial use, as all access would be through the View Motel and Skyline Apartments driveways. Additional apartment units could be constructed under use permit at the R3 density of 29 units per acre, allowing 39 new apartment units on this parcel.

The central parcel, containing those units built in 1986, is zoned R2 on the north portion presumably for the construction of the apartments, and R1 on the south portion. Under current zoning, eight single-family homes would be allowed in this area.

The westerly parcel is zoned R3, a high-density zoning allowing 29 units per acre, or total of 30 units on this parcel.

As you can see, under the current zoning, approximately 77 new units could be constructed, with eight single-family homes sandwiched between two high-rise, high density apartment complexes. Obviously, this would not be the best land use in this neighborhood.

PROJECT OVERVIEW

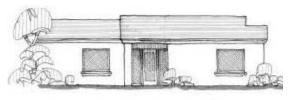
Under the proposed planned area development, 43 new well-planned, one and two-story condominiums would be developed, including a community use area available to all residents within the development. Additionally, under this plan, access would be available both from Main Street and from 16th Street, providing more convenient traffic circulation as well as enhanced access for emergency services.

Overall density would be considerably reduced from that currently allowed, and a cohesive architectural theme would result in a development much more suited to the existing neighborhood. 30 two-story apartments along 16th Street would be replaced by 13 mixed one and two-story condominiums in three separate building modules, presenting a much more pleasant streetscape. Off street parking will be mostly hidden from street view, and low-water trees and landscaping will provide attractive screening. Sample elevations are shown below.

As a neighboring property owner, your comments and input regarding this proposal are welcome and important to us.



Typical "A" Unit Front Elevation



Typical "B" Unit Elevation



Typical "C" Unit Elevation

If you would like more information regarding this application and the public hearing process, please contact Berrin Nejad, Community Development Manager, at the City of Cottonwood Development Services building, 111 N. Main Street, or by phone at 928-634-5505.

Thank you for your time and attention.

Mike Gardner, Senior Planner

Casa Verde Consulting, Planning & Design

1800 S. Quail Run

Cottonwood, Arizona 86326

928-399-0003



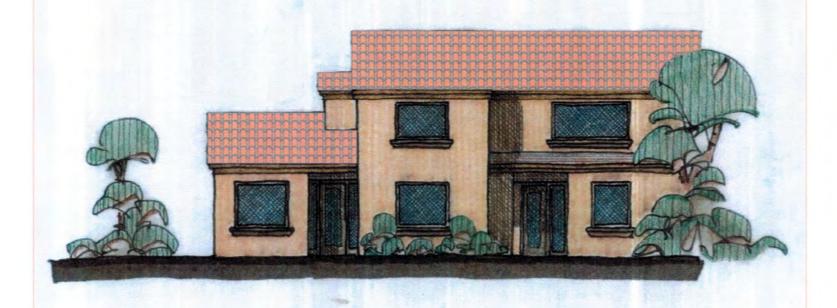
SKYLINE CONDOMINIUMS PRELIMINARY SITE PLAN



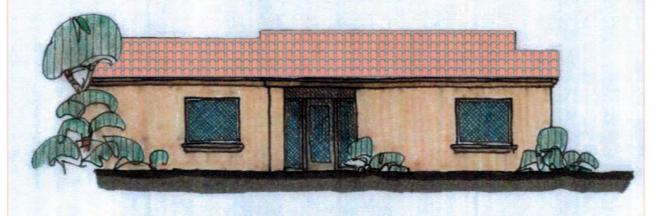


3 BD. RM. "A" UNIT

2 BD. RM. "A" UNIT



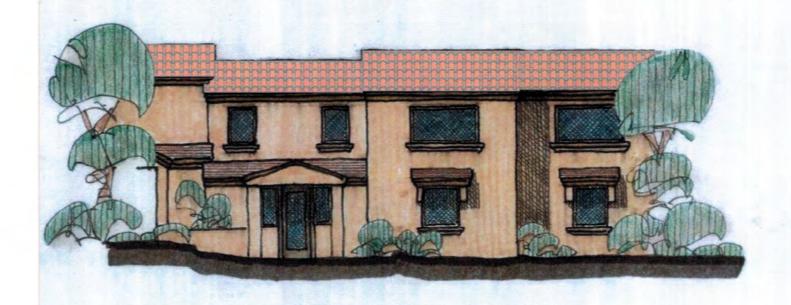
"B" UNIT

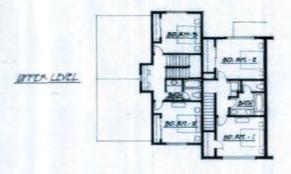


ENTRY ELEVATIONS

"C" UNIT

SCALE: 1/8": 1'-0"









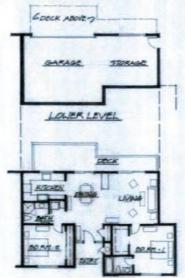
3 50. RM. "A" UNIT

2 80. RM. "A" UNIT



SKYLINE CONDOMINIUMS IL TH. STREET - COTTONWOOD, AZ. CHRISTIAN VERNOSKY - ARCHITECT

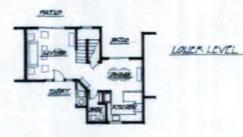
F.O. DOX 39LL - COTTONHOOD, ARIZONA BLOZL



"D" UNIT



UPPER LEVEL



'C' UNIT

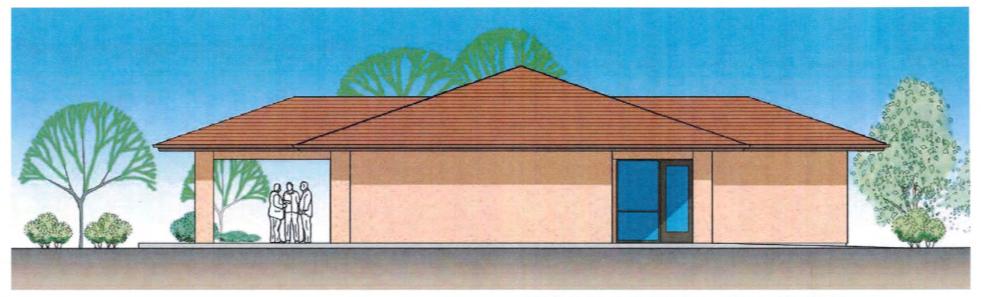
SCALE: 1/8": 1'-0"







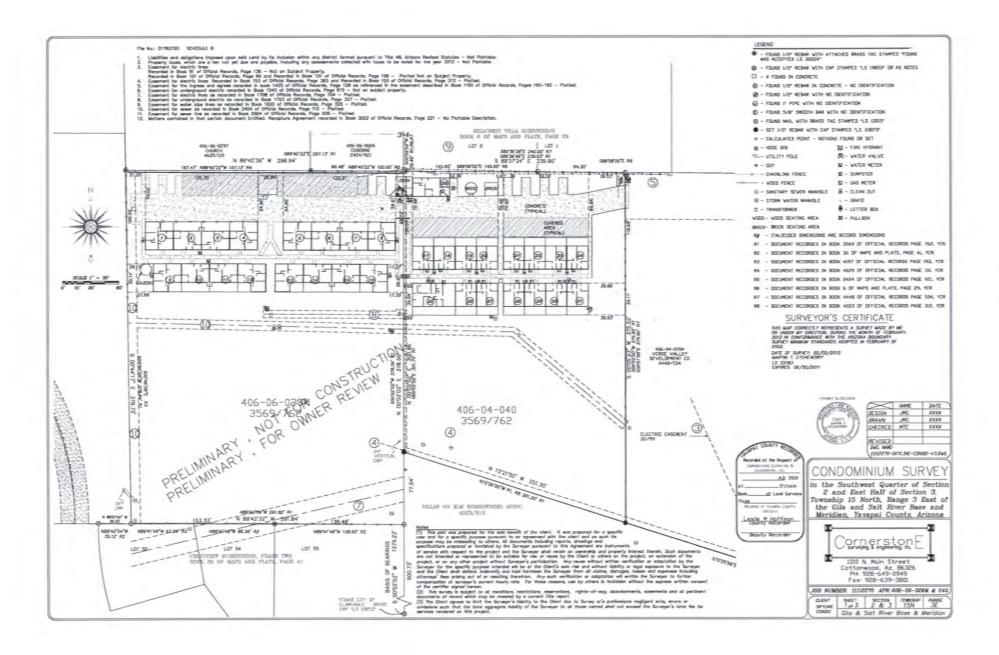
ENTRY ELEVATIONS

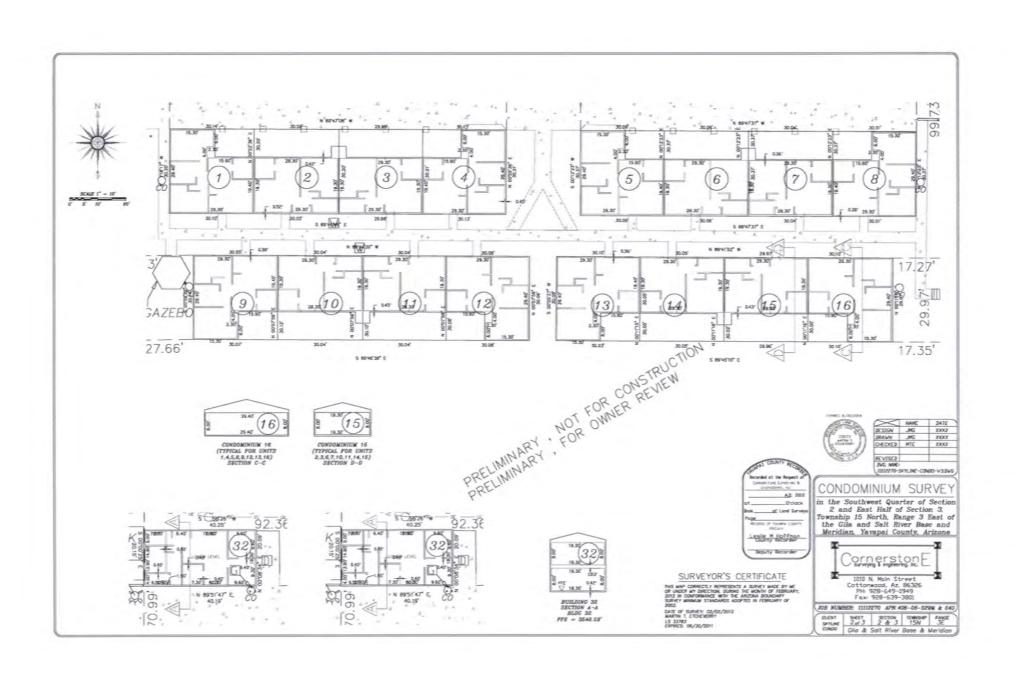


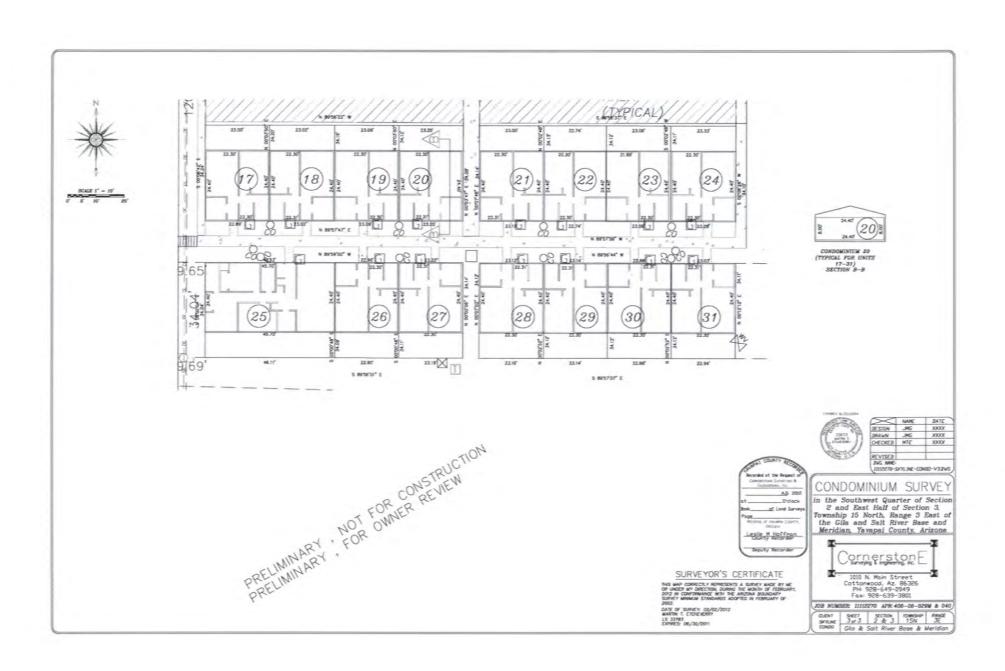
COMMUNITY BUILDING ELEVATION CONCEPT

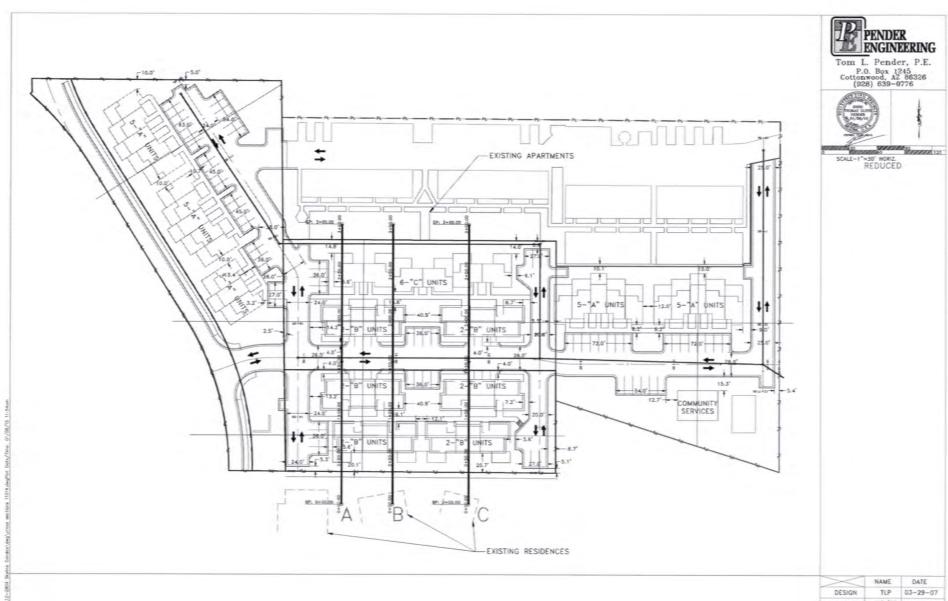


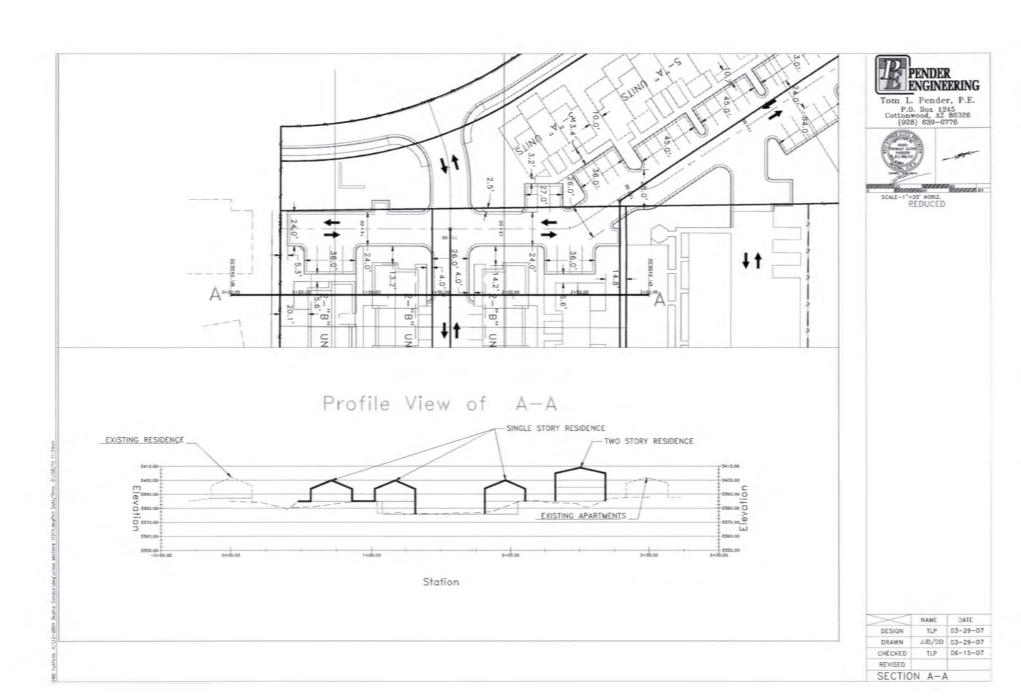
STREET YIEW - 16th STREET

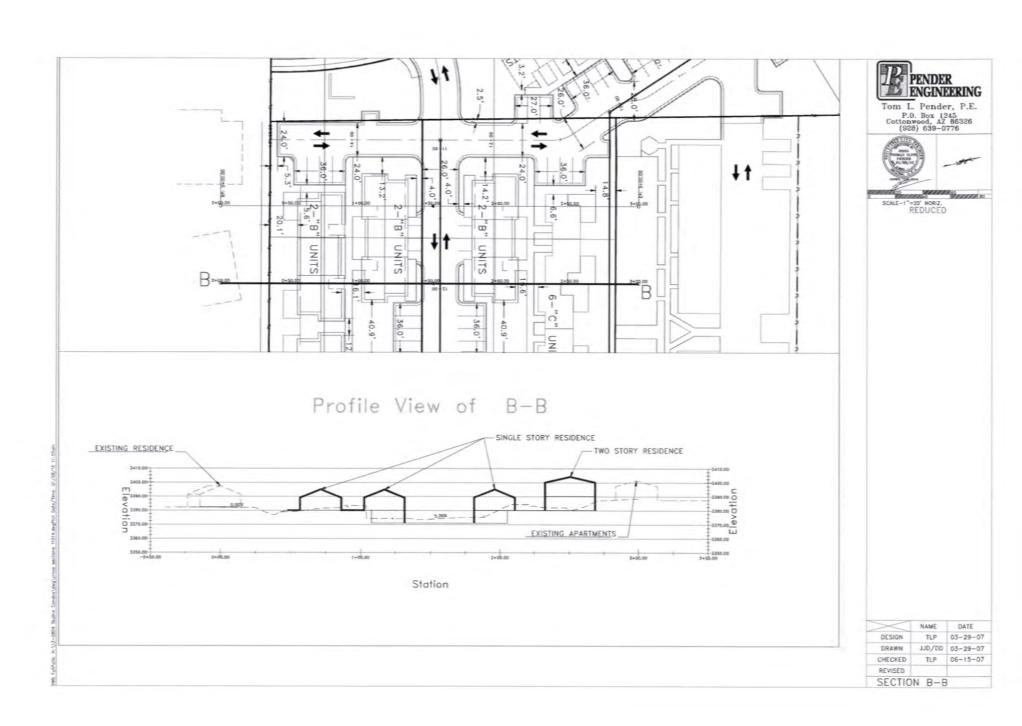


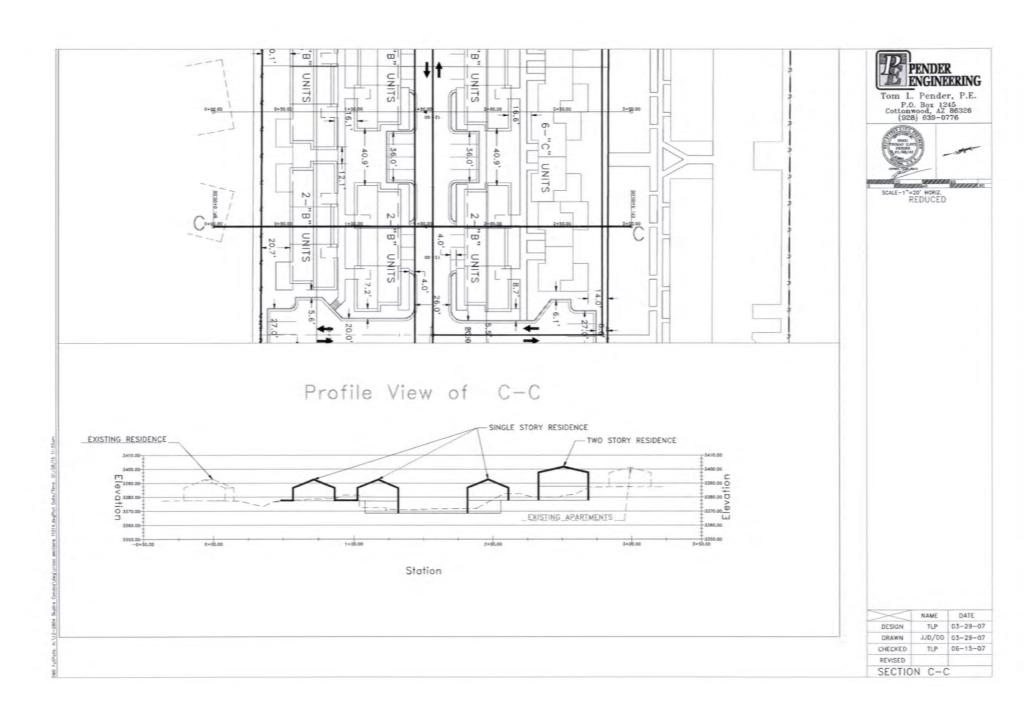












City of Cottonwood, Arizona
City Council Agenda Communication



国 Print

Meeting Date: September 1, 2015

Subject: Resolution No. 2813 - Establish a Temporary Use Permit Fee

Department: Administrative Services

From: Jesus R. Rodriguez, CGFM

Adminsitrative Services General Manager

REQUESTED ACTION

Review and approval of Resolution # 2913 for the establishment of a new Temporary Use Permit Fee Schedule as presented

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

"I move to approve Resolution # 2813, establishing a new Temporary Use Permit Fee Schedule as presented."

BACKGROUND

An issue came up some time ago when we had individuals and dealerships come into our community to sell big ticket items such as cars, trucks, recreational vehicles (RVs), and boats. The City of Cottonwood is not opposed to these type of events since they provide a saving opportunity for our citizens.

Unfortunately, many of these vendors are taking the sales tax back to their communities by having customers sign their agreements at their dealership offices offsite. This leaves our local business at a competitive disadvantage, not to mention no sales tax to Cottonwood. This new Temporary Use Permit Fee will collect at least some of the money lost to these type of event transactions.

In order to protect our smaller vendors that come in for our city events, the initial item limit was raised to a value of \$5,000 from \$0, as per council's request. This gives our smaller vendors an opportunity to be at our events and only pay a nominal fee of \$5 for a special event permit.

To be fair with those outside companies that do pay their sales tax to Cottonwood; with proof we will provide a credit toward their next permit for a special event.

JUSTIFICATION/BENEFITS/ISSUES

This fee helps with the sales tax leakage that happens when we approve tent events or parking lot sales from individuals and dealerships outside the city.

COST/FUNDING SOURCE

No cost.

ATTACHMENTS:		
Name:	Description:	Type:
Notice - Temporary Use Permit Fee.pdf	NOI - Temporary Use Permit	Backup Material
□ <u>res2813.docx</u>	Resolution Number 2813	Cover Memo



Notice of Intent to Establish a Temporary Use Permit Fee Schedule

Pursuant to A.R.S. §9-499.15.B.1, notice is hereby given that the Cottonwood City Council will consider imposing the following temporary use permit fee schedule within the City, effective September 1, 2015:

TEMPORARY USE PERMIT FEE SCHEDULE

I.	Application Fee (non-refundable)	\$50.00
II.	Permit Fee Schedule	
	Average Retail Price of Items To Be Sold	Fee
	\$5,001 - \$7,500	\$1,500.00
	\$7,501 - \$10,000	\$2,000.00
	\$10,001 - \$25,000	\$2,500.00
	\$25,001 - \$50,000	\$5,000.00
	\$50,001 - \$75,000	\$7,500.00
	\$75,001 - \$100,000	\$10,000.00
	\$100,001 - \$250,000	\$25,000.00
	\$250,001 - \$500,000	\$50,000.00
	\$500,001 - \$750,000	\$75,000.00
	\$750,001 - \$1,000,000	\$100,000.00
	\$1,000,000 – Up	10% of average sales price per it

Note:

- (1) The amount of the application fee shall be credit to the Temporary Use Permit fee.
- (2) Any business that can provide evidence of sales tax paid to the City of Cottonwood within the preceding twenty-four (24) months, may deduct that amount from the permit fee.
- (3) Any sales tax paid to the City and not applied to the current temporary use permit fee may be deducted from future temporary use permit fees.

The City Council of the City of Cottonwood, Arizona will solicit public comment on the proposed temporary use permit fee at their regular Council meetings on Tuesday, September 1, 2015, at 6:00 p.m., in the City Council Chambers, 826 North Main Street, Cottonwood, Arizona.

Citizens are welcome to provide written comments regarding the proposed temporary use permit fees. These comments may be sent to:

Jeff Cook, Purchasing Agent 816 North Main Street Cottonwood, AZ 86326 Email – jcook@cottonwoodaz.gov

Posted to City of Cottonwood website – June 8, 2015

RESOLUTION NUMBER 2813

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, ESTABLISHING TEMPORARY USE PERMIT FEES.

WHEREAS, Temporary Use Permits are issued within the City of Cottonwood in accordance with the city's Revised Zoning Ordinance Section 307: Temporary Use Permits; and

WHEREAS, the City of Cottonwood desires to charge a fee for certain Temporary Use Permits.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AS FOLLOWS:

The Temporary Use Permit applicant shall submit the application fee (non-refundable) along with the application. If the Temporary Use Permit is approved, the applicant shall pay the appropriate permit fee, outlined in the Permit Fee Schedule and attached as Exhibit A to this resolution, prior to the start date of the Temporary Use Permit.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 1ST DAY OF SEPTEMBER 2015.

	Diane Joens, Mayor
APPROVED AS TO FORM:	ATTEST:
Steven B. Horton, Esq. City Attorney	Marianne Jiménez, City Clerk

RESOLUTION NUMBER 2813 Exhibit A

TEMPORARY USE PERMIT FEE SCHEDULE

I. Application Fee (non-refundable)

\$50.00

II. Permit Fee Schedule

Average Retail Price of Items To Be Sold	Fee	
\$5,001 - \$7,500	\$1,500.00	
\$7,501 - \$10,000	\$2,000.00	
\$10,001 - \$25,000	\$2,500.00	
\$25,001 - \$50,000	\$5,000.00	
\$50,001 - \$75,000	\$7,500.00	
\$75,001 - \$100,000	\$10,000.00	
\$100,001 - \$250,000	\$25,000.00	
\$250,001 - \$500,000	\$50,000.00	
\$500,001 - \$750,000	\$75,000.00	
\$750,001 - \$1,000,000	\$100,000.00	
\$1,000,000 - Up	10% of average sales price per item	

Note:

- (1) The amount of the application fee shall be credit to the Temporary Use Permit fee.
- (2) Any business that can provide evidence of sales tax paid to the City of Cottonwood within the preceding twenty-four (24) months, may deduct that amount from the permit fee.
- (3) Any sales tax paid to the City and not applied to the current temporary use permit fee may be deducted from future temporary use permit fees.

City of Cottonwood, Arizona
City Council Agenda Communication



国 Print

Meeting Date: September 1, 2015

Subject: Police Chief Selection Process

Department: City Manager

From: Doug Bartosh, City Manager

REQUESTED ACTION

Discussion with City Council regarding the selection process for a new police chief to replace Chief Jody Fanning upon his retirement.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is: Information Only.

BACKGROUND

Chief Fanning has notified the City manager that his last day of service will be January 22, 2016.

JUSTIFICATION/BENEFITS/ISSUES

Candidate Pool -- The City Manager is aware of three (3) internal candidates within the police department who are interested in becoming candidates for the position of police chief. They will be encouraged to apply and the position will be advertised throughout the State of Arizona. Several qualified individuals from around the state have expressed interest in the position and selecting someone from inside the state will provide someone who is already state certified, understands the laws and operations of the state, will reduce the cost of transportation for the final candidates, reduce costs for advertising, and it will reduce or eliminate any potential costs of relocation.

Advertising -- Announcements will be made through the Arizona Chiefs of Police Association and the FBI National Academy Associates, which will be the most effective method to distribute the announcement to qualified candidates. The announcement will also be included on the City website and the Facebook page.

Please find attached the a description of the selection process and the number of people and committees that will be able to provide feedback on the candidates. The job description for the position has also been reviewed and updated.

COST/FUNDING SOURCE

Any costs for the hiring process will be covered by the General Fund via the Human Resources budget.

ATTACHMENTS:		
Name:	Description:	Type:
D		

Police_Chief_Selection_Process.docx	Police Chief Hiring Process	Cover Memo
Chief_of_Police_Job_Description.docx	Police Chief Job Description	Cover Memo

Police Chief Selection Process

<u>Background</u> – Chief Fanning has notified the City Manager that his last day of service will be January 22, 2016.

<u>Candidate Pool</u> – The City Manager is aware of three internal candidates within the police department are interested in becoming candidates for the position of police chief. They will be encouraged to apply and the position will be advertised throughout the State of Arizona. Several qualified people from around the state have expressed an interest in the position and selecting someone from inside the state will provide someone who is state certified, understands the laws and operations of the state, will reduce the cost of transportation for the final candidates, there will be less costs for advertising and it will reduce or eliminate any potential costs of relocation.

<u>Advertising</u> – Announcements will be made through the Arizona Chiefs of Police Association, the FBI National Academy Associates, and the League of Arizona Cities and Towns which will be the most effective method to distribute the announcement to qualified candidates. The announcement will also be included on the city website and the Facebook page.

<u>Candidate Assessment and Appointment Timeline –</u>

September 7, 2015 –	Open position (Post and advertise)
October 9, 2015 -	Position closes
October 12-16, 2015 -	Review Applications; phone interviews if more than 7 candidates
November 3, 2015 -	Evening Reception for employees and citizens to meet candidates
November 4-6, 2015 -	On-site finalist interviews
November 12, 2015 -	Interviews of Top Candidate(s) with City Manager
November 16, 2015 -	Conditional Job Offer
November 16-	
December 7, 2015 -	Completion of Background, Medical Evaluation, fitness testing, and polygraph
December 14, 2015 -	Final job offer

Start date

January 11, 2015 -

Application Review Committee

Doug Bartosh

Iris Dobler

Rudy Rodriguez

Richard Faust

Chief Fanning

Councilmember

Interview Committees

Department Heads

Casey Rooney

Rudy Rodriguez

Richard Faust

Mike Kuykendall

Berrin Najad

Roger Biggs

Morgan Scott

Marianne Jimenez

Councilmember

Public Safety Employees

Sergeant Todd Moore

Sergeant Kevin Murie

Communications Manager Marie Carpenter

Detective Aaron Scott

Detective Dobrinski

Detective Sinn

Officer Rick Hicks

Officer Keidi Deaver

Community Leaders

Lana Tolleson

Dr. Paul Tighe

Barbara Uren

Merilee Fowler

Rick Petersen or Robert Janica

Dan Mabery

Mayor Joens

Regional Leaders

Russ Martin

Nancy Gardner

Gayle Mabery

Randy Taylor

Karen Daines

Ray Cota

Capt. David Rhoades

Chief Hazime

Councilmember



CHIEF OF POLICE

Job description Job Code: 300 Range: 35

DESCRIPTION: Under the direction of the City Manager, the Chief of Police is responsible for the delivery of quality Community-Based Policing in active partnership with the citizens of Cottonwood ensuring for the protection of lives and property in the City through the leadership, management and direction of all police employees and functions including Administrative and Patrol Services as well as a Regional Public Safety Communications Center. The Police Chief may perform other duties as assigned.

CLASSIFICATION: This is an exempt, full-time, classified position with full benefits.

ESSENTIAL FUNCTIONS: Essential functions, as defined under the Americans with Disabilities Act, may include the following tasks, knowledge, skills and other characteristics. This list is ILLUSTRATIVE ONLY, and is not a comprehensive listing of all functions and tasks performed by incumbents of this classification.

TASKS: This position directs the planning, delivery, and evaluation of all departmental services and activities through subordinates; formulates and prescribes methods and procedures; plans and develops the departmental budget and monitors all departmental expenditures; prepares budgetary reports for the City Manager; coordinates law enforcement activities with the City Manager, City Council and other department heads; interacts with the public. Plans and assigns work and reviews and evaluates performance of subordinate law enforcement personnel and office support staff; directs and administers the hiring and selection process; assesses workload, the administrative support system and internal reporting relationships to identify opportunities for improvement; directs the implementation of changes; serves as a member of the City's Management Team; promotes positive community relationships by attending Council Meetings, service and civic club functions and other public forums; provides advice on public safety, law enforcement and community service issues to the City and to the general public; coordinates law enforcement activities with other public safety agencies from other communities, jurisdictions, state and federal agencies. Must have the ability and motivation to continue moving the Cottonwood Police Department forward in performance.

KNOWLEDGE, SKILLS AND OTHER CAPABILITIES:

Knowledge of the principles and practices of modern police administration and police methods and the use of police records and their application to police administration.

Knowledge of departmental rules and regulations and applicable federal, state, and local laws and ordinances.

Knowledge of the standards by which the quality of police service is evaluated.

Knowledge of the City of Cottonwood's governmental organization, policies and procedures. Knowledge of administrative, managerial and supervisory procedures, practices and principles. Knowledge of budget preparation, monitoring and administration.

Knowledge of public safety technology.

Knowledge of available law enforcement grant funding and the skill to develop proposals for such funding.

Skill in planning, organizing and directing the work of employees performing varied operations connected with police activities and developing proper training and instructional procedures for those employees.

Skill in understanding and interpreting complex laws, rules, regulations, policies, and guidelines. Skill in supervising, evaluating, training, mentoring and motivating employees.

Skill in written communications for administrative and technical purposes.

Skill in oral communication in one-on-one and group situations including public speaking in large groups, conflict resolution and alternate dispute resolution.

Skill in utilizing public relations techniques in responding to inquiries and complaints. Knowledge and skills for leading a Regional Communications Center

PHYSICAL REQUIREMENTS: Work involved in this classification includes office activities such as monitoring budgets, administering programs and providing guidance and direction to staff. It also includes occasional law enforcement fieldwork requiring the full range of capabilities to perform in a law enforcement environment. Work involved in this classification includes full-time law enforcement activities coupled with traffic control, crowd control, investigations, and hazardous materials spills. Activities may also include, but are not limited to, standing and/or walking for extended periods, short sprints, long pursuit running lasting over 2 minutes, running up and down stairs, pushing heavy objects such as vehicles, jumping over and around obstacles, lifting and carrying objects sometimes up and down stairs, using hands and feet in use of force situations, performance of appropriate defensive tactics and suspect control techniques, using force in short and long term (greater than 2 minutes) efforts, bending and reaching, dragging people and objects as in extracting victims from vehicles.

MINIMUM REQUIREMENTS/QUALIFICATIONS: Education and/or experience equivalent to a Bachelor's Degree, Master's preferred, in Police Science, Administration of Justice, Organizational Management, Public Administration or closely related area and work experience equivalent to ten (10) years full time managerial and supervisory level sworn law enforcement work. FBI National Academy graduate or Northwest Command School graduate preferred. Candidate of choice must possess Arizona Peace Officer Standards Training (AZPOST) certification as a Law Enforcement Officer or obtain within 90 days of hire, possess a valid Arizona driver's license, and successfully pass the Police Officers Physical Ability Test or an equivalent fitness test prior to date of hire and annually thereafter.

Chief of Police Job Description

Updated by: Doug Bartosh – 6/30/2015

Reviewed / Approved by: <u>Doug Bartosh, City Manager 6/30/2015</u>	
Employee's Signature	_ Date:

City of Cottonwood, Arizona
City Council Agenda Communication



<u></u> Print

Meeting Date: September 1, 2015

Subject: Ordinance 615 - Flood Plain Management Ordinance

Department: Attorney

From: Morgan Scott, Development Services Manager

Robert Winiecke, City Engineer Steve Horton, City Attorney

REQUESTED ACTION

Discussion, consideration and first reading of a proposed new ordinance regulating development and other activities within the City's FEMA-designated floodplain.

SUGGESTED MOTION

If the Council desires to approve this item the suggested motion is:

N/A, First Reading

BACKGROUND

As previously discussed with Council, since the City administers development within its own floodplain it is required to adopt a set of floodplain management regulations that meet or exceed the minimum criteria set forth in Title 44, Section 60 of the Code of Federal Regulations in order to participate in the National Flood Insurance Program. The adoption of this floodplain management ordinance will partially satisfy this requirement, and enable properties with the City to be eligible for federally subsidized flood insurance as well as hazard assistance in the event of flooding.

JUSTIFICATION/BENEFITS/ISSUES

See above. The City must also adopt a resolution of intent to participate in the National Flood Insurance Program, which will be presented to Council at the next meeting, at which time the attached ordinance will be presented for second reading and formal adoption.

COST/FUNDING SOURCE

The only costs associated with the adoption of these regulations will be the time spent by staff - primarily the City's designated Floodplain Administrator - to implement and enforce them. It is anticipated that no hard costs or new staff will be required to administer this program.

ATTACHMENTS:		
Name:	Description:	Type:
ord615.docx	Ordinance 615	Cover Memo
D	NFIP Brochure	Cover Memo

ORDINANCE NUMBER 615

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, AMENDING CHAPTER 18.08, FLOOD DAMAGE PREVENTION, BY DELETING SECTION 18.08, OF THE MUNICIPAL CODE, AND ADDING A NEW SECTION 18.08, FLOODPLAIN MANAGEMENT.

WHEREAS, the City Council has determined that it is appropriate and proper to amend Chapter 18.08, Flood Damage Prevention with a new section 18.08, Floodplain Management;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF COTTONWOOD, YAVAPAI, COUNTY, ARIZONA, AS FOLLOWS:

<u>Section 1</u>: That Chapter 18.08, Flood Damage Prevention, is hereby repealed and a new Section 18.08, Floodplain Management is hereby added as follows:

Sections:

SECTION 18.08.01 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

- A. STATUTORY AUTHORIZATION
- B. FINDING OF FACT
- C. STATEMENT OF PURPOSE
- D. METHODS OF REDUCING FLOOD LOSSES

SECTION 18.08.02 DEFINITIONS

SECTION 18.08.03 GENERAL PROVISIONS

- A. LANDS TO WHICH THIS ORDINANCE APPLIES
- B. BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS
- C. COMPLIANCE
- D. ABROGATION AND GREATER RESTRICTIONS
- E. INTERPRETATION
- F. DISCLAIMER OF LIABILITY
- G. STATUTORY EXCEPTIONS
- H. UNLAWFUL ACTS

- I. DECLARATION OF PUBLIC NUISANCE STATUTE
- J. ABATEMENT OF VIOLATIONS
- K. SEVERABILITY

SECTION 18.08.04 ADMINISTRATION

- A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR
- B. DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR
 - 1. Permit Review
 - 2. Substantial Improvement and Substantial Damage Assessment
 - 3. Use of Other Base Flood Data
 - 4. Obtain and Maintain for Public Inspection
 - 5. Notification to Other Entities
 - 6. Map Determinations
 - 7. Remedial Actions
 - C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

SECTION 18.08.05 PROVISIONS FOR FLOOD HAZARD REDUCTION

- A. STANDARDS OF CONSTRUCTION
 - 1. Anchoring
 - 2. Construction Materials and Methods
 - 3. Elevation and Floodproofing
 - a. Residential Construction
 - b. Nonresidential Construction
 - c. Manufactured Home
 - d. Accessory Structures (Detached Garages & Storage Structures)
 - e. Flood Openings
 - f. Machinery and Service Equipment
- B. STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT
- C. STANDARDS FOR WATER SUPPLY AND WASTE DISPOSAL SYSTEMS
- D. ADDITIONAL DEVELOPMENT STANDARDS FOR SUBDIVISIONS
- E. STANDARDS FOR MANUFACTURED HOMES
- F. STANDARDS FOR RECREATION VEHICLES
- G. FLOODWAYS
- H. FLOOD-RELATED EROSION-PRONE AREAS

SECTION 18.08.06 VARIANCE PROCEDURE

- A. NATURE OF VARIANCES
- B. FLOODPLAIN REVIEW BOARD
- C. CONDITIONS FOR VARIANCES

18.08.01. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS

A. Statutory Authorization

A.R.S. § 48-3610 authorizes the City of Cottonwood to assume the powers and duties for floodplain management and adopt regulations in conformance with A.R.S. § 48-3609 designed to promote the public health, safety and general welfare of its citizenry. Therefore, the City Council of Cottonwood, Arizona, does hereby ordain as follows:

B. Findings of Fact

- The flood hazard areas of the City of Cottonwood are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection, and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- 2. These flood losses may be caused by the cumulative effect of obstructions in special flood hazard areas which increase flood heights and velocities. When obstructions are inadequately anchored, this may cause damage in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage, also contribute to flood loss.

C. Statement of Purpose

It is the purpose of this ordinance to promote the public health, safety, and general welfare. It is also the purpose of this ordinance to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 1. Protect human life and health;
- 2. Minimize expenditure of public money for costly flood control projects;
- 3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 4. Minimize prolonged business interruptions;
- 5. Minimize damage to public facilities; utilities such as water, gas, electric,

- telephone and sewer lines; streets and bridges located in special flood hazard areas;
- 6. Help maintain a stable tax base by providing for the sound use and development of special flood hazard areas so as to minimize blight zones caused by flooding;
- 7. Notify potential buyers that a property is in a Special Flood Hazard Area;
- 8. Notify those who occupy special flood hazard areas that they assume responsibility for their actions;
- 9. Participate in and maintain eligibility for flood insurance and disaster relief.

D. Methods of Reducing Flood Losses

In order to accomplish its purposes, this ordinance includes methods and provisions to:

- 1. Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion, flood heights or velocities;
- 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3. Control the alteration of natural floodplains, stream channels, and protective barriers which help accommodate or channel floodwaters;
- 4. Control filling, grading, dredging, and other development activities which may increase flood damage;
- 5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

18.08.02 DEFINITIONS

Accessory structure. A structure that is on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure.

Alluvial fan. A geomorphologic feature characterized by a cone or fan-shaped deposit of boulders, gravel, and fine sediments that have been eroded from mountain slopes, transported by flood flows, and deposited on the valley floors. This feature is subject to flash flooding, high velocity flows, debris flows, erosion, sediment movement, sediment deposition, and channel migration.

Apex. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appeal. A request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance or a request for a variance.

Area of shallow flooding. A designated Zone AO, AH, AR/AO or AR/AH on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood-related erosion hazard. The land within a community which is most likely to be subject to severe flood-related erosion losses.

Base flood. A flood which has a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE). The computed elevation to which floodwater is anticipated to rise during the base flood.

Basement. Any area of the building having its floor sub-grade - i.e., below ground level - on all sides.

Building. See "Structure."

Community. Any state, area or political subdivision thereof, any Indian tribe, authorized tribal organization, or authorized native organization, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

Determining Market Value of Existing Structures. "Market value" shall be determined by estimating the cost to replace the structure in new condition and adjusting that cost figure by the amount of depreciation which has accrued since the structure was constructed.

- 1) The cost of replacement of the structure shall be based on a square foot cost factor determined by reference to a building cost estimating guide recognized by the building construction industry.
- 2) The amount of depreciation shall be determined by taking into account the age and physical deterioration of the structure and functional obsolescence as approved by the floodplain administrator, but shall not include economic or

other forms of external obsolescence.

3) Use of replacement costs or accrued depreciation factors different from those contained in recognized building cost estimating guides may be considered only if such factors are included in a report prepared by an independent professional appraiser and supported by a written explanation of the differences.

Development. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

Elevation Certificate. An administrative tool of the National Flood Insurance Program (NFIP) that is used to provide elevation information necessary to ensure compliance with community floodplain management ordinances, to determine the proper insurance premium rate, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

Encroachment. The advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Erosion. The process of the gradual wearing away of landmasses. This peril is not, per se, covered under the National Flood Insurance Program.

Existing manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before May 5, 1975.

Expansion to an existing manufactured home park or subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- 1) the overflow of floodwaters;
- 2) the unusual and rapid accumulation or runoff of surface waters from any source; and/or

3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in this definition.

Flood Insurance Rate Map (FIRM). The official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas (SFHAs) and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). The official report provided by the Federal Emergency Management Agency that includes flood profiles, Flood Insurance Rate Maps, and the water surface elevation of the base flood.

Floodplain or flood-prone area. Any land area susceptible to being inundated by water from any source. See "Flood or flooding."

Floodplain Administrator. The community official designated by title to administer and enforce the floodplain management regulations.

Floodplain Board. The City Council of the City of Cottonwood at such times as they are engaged in the enforcement of this ordinance.

Floodplain management. The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain management regulations. The ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as grading and erosion control) and other application of police power which control development in flood-prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to nonresidential structures which reduce or eliminate risk of flood

damage to real estate or improved real property, water and sanitary facilities, structures, and their contents by means other than elevation.

Flood-Related Erosion. The collapse or subsidence of land along the shore of a lake or other body of water as a result of undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood-related erosion area management. The operation of an overall program of corrective and preventive measures for reducing flood-related erosion damage, including but not limited to emergency preparedness plans, flood-related erosion control works, and floodplain management regulations.

Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. Also referred to as "Regulatory Floodway."

Floodway fringe. That area of the floodplain on either side of the "Regulatory Floodway" where encroachment may be permitted.

Fraud and victimization. As related to Section 18.08.06 of this ordinance, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the City Council, when acting in its capacity as the Floodplain Board will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty to one-hundred years. Buildings that are permitted to be constructed below the Regulatory Flood Elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

Functionally dependent use. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long-term

storage or related manufacturing facilities.

Governing body. The City Council of the City of Cottonwood, Yavapai County, Arizona.

Hardship. As related to Section 18.08.06 of this ordinance, the exceptional hardship that would result from a failure to grant a requested variance. The City Council of the City of Cottonwood in its capacity as the City's Floodplain Board requires that a variance be exceptional, unusual, and peculiar to the property involved. A variance cannot be self-caused. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

Highest adjacent grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure. Any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee. A man-made structure, usually an earthen embankment, designed and

constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system. A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor. The lowest floor of the lowest enclosed area, including the basement. See "Basement." An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

Manufactured home. A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market value. Replacement cost of a structure less depreciation since construction.

Mean sea level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

New construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the

manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

Obstruction. Including, but not limited to, any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

One-hundred-year flood or 100-year flood. A common name for the flood having a one percent chance of being equaled or exceeded in any given year. See "Base flood."

Person. An individual or the individual's agent, a firm, partnership, association or corporation, or an agent of the aforementioned groups, or this state or its agencies or political subdivisions.

Program deficiency. A defect in a community's floodplain management regulations or administrative procedures that impairs effective implementation of those floodplain management regulations.

Public safety and nuisance. As related to Section 18.08.06 of this ordinance, means that the granting of a variance must not result in anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle. A vehicle which is:

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light-duty truck;
- 4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Flood Elevation (RFE). An elevation one foot above the Base Flood Elevation.

Regulatory floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Remedy a violation. To bring the structure or other development into compliance with Federal, State or local floodplain management regulations, or if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing State or Federal financial exposure with regard to the structure or other development.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, wash, etc.

Sheet flow area. See "Area of shallow flooding."

Special Flood Hazard Area (SFHA). An area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on a Flood Insurance Rate Map as Zone A, AO, AE, AH or A99.

Start of construction. Includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a Permanent construction does not include land preparation, such as foundation. clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure. A walled and roofed building that is principally above ground; this includes

a gas or liquid storage tank or a manufactured home.

Substantial damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement. Any reconstruction, rehabilitation, addition, or other improvement to a structure, the total cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- 1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- 2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance. A grant of relief from the requirements of this ordinance which permits construction or other uses of property in a manner that would otherwise be prohibited by this ordinance.

Violation. The failure of a structure or other development to be fully compliant with these floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

Water surface elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) of 1988, or other datum, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse. A lake, river, creek, stream, wash, arroyo, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Zone A. No Base Flood Elevations determined.

Zone AE. Base Flood Elevations determined.

Zone AH. Flood depths of 1 to 3 feet (usually areas of ponding); Base Flood Elevations determined.

Zone AO. Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined.

Zone AR. Special Flood Hazard Area formerly protected from the 1% annual chance flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood.

Zone A99. Area to be protected from 1% annual chance flood by a Federal flood protection system under construction; no Base Flood Elevations determined.

Zone D. Areas in which flood hazards are undetermined, but possible.

Zone X (unshaded). Areas determined to be outside the 0.2% annual chance floodplain.

Zone X (shaded). Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood.

SECTION 18.08.03 GENERAL PROVISIONS

A. Lands to Which This Ordinance Applies

This ordinance shall apply to all special flood hazard areas within the corporate limits of City of Cottonwood. (ARS § 48-3603.)

B. Basis for Establishing Special Flood Hazard Areas

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study (FIS) for Yavapai County, Arizona and Incorporated Areas" dated September 3, 2010, with accompanying Flood Insurance Rate Maps (FIRMs) dated September 3, 2010, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this ordinance. This FIS and attendant mapping is the minimum area of applicability of this ordinance and may be supplemented by studies for other areas which allow implementation of this ordinance and which are recommended to the Floodplain Board by the Floodplain Administrator. The

Floodplain Board, within its area of jurisdiction, shall delineate (or may, by rule, require developers of land to delineate) for areas where development is ongoing or imminent, and thereafter as development becomes imminent, floodplains consistent with the criteria developed by the Federal Emergency Management Agency and the Director of the Arizona Department of Water Resources. The FIS and FIRM panels are on file at Public Works Building at 1490 West Mingus Avenue, Cottonwood, Arizona, 86326.

C. Compliance

All development of land, construction of residential, commercial or industrial structures, or future development within delineated floodplain areas is subject to the terms of this ordinance and other applicable regulations.

D. Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this ordinance and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

E. Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

- 1. Considered as minimum requirements;
- 2. Liberally construed in favor of the governing body; and
- 3. Deemed neither to limit nor repeal any other powers granted under state statutes.

F. Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Cottonwood, any officer or employee thereof, the State of Arizona, Yavapai County or the Federal Emergency Management Agency, for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

G. Statutory Exceptions

- 1. In accordance with A.R.S. § 48-3609(H), unless expressly provided, this and any regulation adopted pursuant to this article do not affect:
- 2. Existing legal uses of property or the right to continuation of such legal use. However, if a nonconforming use of land or a building or

structure is discontinued for twelve months, or damaged to the extent of fifty (50) per cent of its market value as determined by a certified appraiser, any further use shall comply with this ordinance and other applicable regulations of the City of Cottonwood;

- 3. Reasonable repair or alteration of property for the purposes for which the property was legally used on August 3, 1984, or on the date any regulations affecting such property takes effect, except that any alteration, addition or repair to a nonconforming building or structure which would result in increasing its flood damage potential by 50 percent or more shall be either floodproofed or elevated to or above the Regulatory Flood Elevation;
- 4. Reasonable repair of structures constructed with the written authorization required by A.R.S. § 48-3613;
- 5. Facilities constructed or installed pursuant to a Certificate of Environmental Compatibility issued pursuant to A.R.S. Title 40, Chapter 2, Article 6.2; and
- 6. In accordance with A.R.S. § 48-3613(D), in addition to other penalties or remedies otherwise provided by law, the state, a political subdivision or a person who may be damaged or has been damaged as a result of the unauthorized diversion, retardation or obstruction of a watercourse has the right to commence, maintain and prosecute any appropriate action or pursue any remedy to enjoin, abate or otherwise prevent any person from violating or continuing to violate these regulations or regulations adopted pursuant to A.R.S. Title 48, Chapter 21, Article 1. If a person is found to be in violation of any provision of this ordinance, the court shall require the violator to either comply with this ordinance if authorized by the Floodplain Board and/or remove the obstruction and restore the watercourse to its original state. The court may also award such monetary damages as are appropriate to the injured parties resulting from the violation including reasonable costs and attorney fees.
- 7. Before the following types of construction authorized by A.R.S. § 48-3613(B) begin, the responsible person must submit plans for the construction to the Floodplain Board for review and comment pursuant to A.R.S. § 48-3613(C):
- 8. The construction of bridges, culverts, dikes and other structures necessary to the construction of public highways, roads and streets intersecting or crossing a watercourse;
- 9. The construction of storage dams for watering livestock or wildlife, structures on banks of a watercourse to prevent erosion of or damage

to adjoining land if the structure will not divert, retard or obstruct the natural channel of the watercourse or dams for the conservation of floodwaters as permitted by A.R.S. Title 45, Chapter 6;

- 10. Construction of tailing dams and waste disposal areas for use in connection with mining and metallurgical operations. This paragraph does not exempt those sand and gravel operations that will divert, retard or obstruct the flow of waters in any watercourse from complying with and acquiring authorization from the Floodplain Board pursuant to regulations adopted by the Floodplain Board under this ordinance;
- 11. Other construction upon determination by the Floodplain Board that written authorization is unnecessary;
- 12. The construction of streams, waterways, lakes and other auxiliary facilities in conjunction with development of public parks and recreation facilities by a public agency or political subdivision; and
- 13. The construction and erection of poles, towers, foundations, support structures, guy wires and other facilities related to power transmission as constructed by any utility whether a public service corporation or a political subdivision.

H. Unlawful Acts

- 1. It is unlawful for a person to engage in any development or to divert, retard or obstruct the flow of waters in a watercourse if it creates a hazard to life or property without securing the written authorization required by A.R.S. § 48-3613. Where the watercourse is a delineated floodplain, it is unlawful to engage in any development affecting the flow of waters without securing written authorization required by A.R.S. § 48-3613.
- 2. Any person found guilty of violating any provision of this ordinance shall be guilty of a Class 2 misdemeanor. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

I. Declaration of Public Nuisance Statute

All development located or maintained within any Special Flood Hazard Area after August 8, 1973, in violation of this ordinance, is a public nuisance per se and may be abated, prevented or restrained by the City.

J. Abatement of Violations

Within thirty (30) days of discovery of a violation of this ordinance or as soon as

possible thereafter, the Floodplain Administrator shall submit a report to the Floodplain Board which shall include all information available to the Floodplain Administrator which is pertinent to said violation. Within thirty (30) days of receipt of this report or as soon as possible thereafter, the Floodplain Board shall either:

- 1. Take any necessary action to effect the abatement of such violation; or
- 2. Issue a variance to this ordinance in accordance with the provisions of Section 18.08.06 herein; or
- 3. Order the owner of the property upon which the violation exists to provide whatever additional information may be required for their determination. Such information must be provided to the Floodplain Administrator within thirty (30) days of such order and the Floodplain Administrator shall submit an amended report to the Floodplain Board within twenty (20) days. At the next regularly scheduled public meeting (or at any subsequent meeting at which the matter is to be considered), the Floodplain Board may either order the abatement of said violation, or may grant a variance in accordance with the provisions of Section 18.08.06 herein; or
- 4. Submit to the Federal Emergency Management Agency a declaration for denial of insurance, stating that the property is in violation of a cited state or local law, regulation or ordinance, pursuant to Section 1316 of the National Flood Insurance Act of 1968 as amended.

K. Severability

This ordinance and the various parts thereof are hereby declared to be severable. Should any Section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the Section so declared to be unconstitutional or invalid.

18.08.04 ADMINISTRATION

A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The City Engineer or his/her designee is hereby appointed to administer, implement and enforce this ordinance by granting or denying development permits in accordance with its provisions.

B. <u>Duties and Responsibilities of the Floodplain Administrator</u>

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Permit Review

Review all development permits to determine that:

- a. The permit requirements of this ordinance have been satisfied;
- b. All other required county, state and federal permits have been obtained;
- c. The site is reasonably safe from flooding;
- d. In areas where a floodway has not been designated, the proposed development does not adversely affect the carrying capacity of areas where Base Flood Elevations have been determined.

For the purposes of this ordinance, "adversely affect" means that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point.

2. Substantial Improvement and Substantial Damage Assessment

The Floodplain Administrator shall review all development permits for improvements and/or damages to existing structures to determine if the application of the substantial improvement rules apply, including establishing a definition of market value determination and verifying that the estimated improvement and/or repair costs are less than 50% of the market value of the structure.

3. Use of Other Base Flood Data

When Base Flood Elevation data has not been provided in accordance with Section 18.08.03.B, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data available from a federal, state, county or other source, in order to administer Section 18.08.05. Any such information shall be consistent with the requirements of the Federal Emergency Management Agency and the Arizona Department of Water Resources and may be submitted to the Floodplain Board for adoption.

4. Obtain and Maintain for Public Inspection

The Floodplain Administrator shall obtain and maintain the following for public inspection and make available as needed:

- a. Certification required by Section 18.08.05.A.3.a and Section 18.08.05.F (lowest floor elevations, bottom of the structural frame, and utilities);
- b. Certification required by Section 18.08.05.A.3.b (lowest floor elevations or

floodproofing of nonresidential structures and utilities);

- c. Certification required by Section 18.08.05.A.3.e (flood vents);
- d. Certification of elevation required by Section 18.08.05.D.1.b. (subdivisions and other proposed development standards);
- e. Certification required by Section 18.08.05.G.1 (floodway encroachments);
- f. Records of all variance actions, including justification for their issuance
- g. Improvement and damage calculations required in Section 18.08.04.B.2

5. Notification to Other Entities

- a. Whenever a watercourse within the City is to be altered or relocated, the Floodplain Administrator shall:
 - 1. Notify adjacent communities and the Arizona Department of Water Resources prior to such alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency through appropriate notification means; and
 - 2. Ensure that the flood carrying capacity of the altered or relocated portion of said watercourse will be maintained.
- b. Changes in Base Flood Elevation and rate of flow due to physical alterations:
 - 1. Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available to the Floodplain Administrator, the Floodplain Administrator shall notify the Federal Emergency Management Agency of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3.
 - 2. Within one hundred twenty (120) days after completion of construction of any flood control protective works within the City which changes the rate of flow during the base flood or the configuration of the floodplain upstream or downstream from or adjacent to the project, the person or agency responsible for installation of the project shall provide to the governing bodies of all jurisdictions affected by the project a new delineation of all floodplains affected by the project in accordance with the criteria adopted by the Arizona Department of Water Resources.
- c. The Floodplain Administrator shall advise the Yavapai County Flood Control District (YCFCD) and any adjunct jurisdiction having responsibility for floodplain management in writing and provide a copy of development plans for all applications of which the City becomes aware for floodplain use permits or variances to develop land in a floodplain or floodway within one mile of the corporate limits of Cottonwood, and/or which could affect floodplains,

floodways or watercourses within the District or adjunct jurisdiction's area of jurisdiction. Written notice and a copy of the plan of development shall be sent to the District or adjunct jurisdiction no later than five (5) working days after having been received by the City.

d. The Floodplain Administrator shall notify the Federal Emergency Management Agency and Arizona Department of Water Resources of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

6. Map Determinations

The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the boundaries of the special flood hazard areas (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 18.08.06.

7. Remedial Actions

The Floodplain Administrator shall take actions on violations of this ordinance as required in Section 18.08.03.A. herein.

C. <u>ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT</u>

A Floodplain Development Permit shall be obtained before construction or development begins, including placement of manufactured homes, within any Special Flood Hazard Area established pursuant to Section 18.08.03.B. Application for a Floodplain Development Permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions and elevation of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information is required:

- 1. Proposed elevation in relation to mean sea level of the lowest floor (including basement) of all structures. In Zone AO, elevation of existing highest adjacent grade and proposed elevation of lowest floor of all structures;
- 2. Proposed elevation in relation to mean sea level to which any non-residential structure will be floodproofed;
- 3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Section 18.08.05.A.3.b;
- 4. Base Flood Elevation data for subdivision proposals or other development greater than 50 lots or 5 acres, whichever is the lesser; and

5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

18.08.05 PROVISIONS FOR FLOOD HAZARD REDUCTION

A. STANDARDS OF CONSTRUCTION

In all Special Flood Hazard Areas the following standards shall apply:

1. Anchoring

- a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- b. All manufactured homes shall meet the anchoring standards of Section 18.08.05.E.2.

2. Construction Materials and Methods

- a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;
- c. Within Zones AH or AO, adequate drainage paths shall be constructed around structures on slopes to guide floodwaters around and away from proposed structures.

3. Elevation and Floodproofing

a. Residential Construction

Residential construction, as well as new or substantial improvements to residential structures, shall have the lowest floor, including basement, elevated to or above the Regulatory Flood Elevation.

- 1. In a Zone AO, the Base Flood Elevation is determined from the FIRM panel. If unspecified, the required elevation is at minimum two (2) feet above the highest adjacent grade.
- 2. In a Zone A where the Base Flood Elevation has not been determined,

the Base Flood Elevation is determined by the criteria set out in Section 18.08.04.B.3.

- 3. In Zones AE and AH, the Base Flood Elevation is determined from the FIS and/or FIRM.
- 4. A garage attached to a residential structure, constructed with the garage floor slab below the Regulatory Flood Elevation, must be designed to allow for the automatic entry and exit of flood waters. See Section 18.08.05.A.3.d (1) or (2).

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

b. Nonresidential Construction

Nonresidential construction, as well as new or substantial improvements to residential structures, shall have the lowest floor either elevated to conform with Section 18.08.05.A.3.a (1), (2), or (3) as appropriate, or, together with attendant utility and sanitary facilities,

- 1. Be floodproofed below the elevation recommended under Section 18.08.05.A.3.a (1), (2), or (3) as appropriate so that the structure is watertight with walls substantially impermeable to the passage of water; and
- 2. Have structural components capable of resisting hydrodynamic and hydrostatic loads and effects of buoyancy.

Upon completion of the structure, certification by a registered professional engineer, surveyor, or architect that either the elevation requirements of subsection A or the floodproofing requirements of subsection B have been satisfied shall be provided to the Floodplain Administrator for verification.

c. Manufactured Home

Manufactured homes shall meet the standards in Section 18.08.05.E.

d. Accessory Structures (Detached Garages & Storage Structures)

Accessory structures used solely for parking of vehicles or storage may be constructed

such that the floor is below the Regulatory Flood Elevation, provided the structure is designed and constructed in accordance with the following requirements:

- 1. Use of the accessory structure must be limited to parking of vehicles or storage;
- 2. The portions of the accessory structure located below the Regulatory Flood Elevation must be built using flood resistant materials;
- 3. The accessory structure must be adequately anchored to prevent flotation, collapse and lateral movement;
- 4. Any machinery or equipment servicing the accessory structure must be elevated or floodproofed to or above the Regulatory Flood Elevation;
- 5. The accessory structure must comply with floodway encroachment provisions in Section 18.08.05.*G*; and
- 6. The accessory structure must be designed to allow for the automatic entry and exit of flood waters in accordance with Section 18.08.05.A.3.e (1) or (2).

Detached garages, storage structures and other accessory structures not meeting the above standards must be constructed in accordance with all applicable standards in Section 18.08.05.A.3.a (1), (2), or (3) as appropriate.

Upon completion of the structure, certification by a registered professional engineer or surveyor that the requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

e. Flood Openings

All new construction and substantial improvement with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater. Designs for meeting this requirement must meet or exceed the following criteria:

For non-engineered openings:

- 1. Have a minimum of two openings, on different sides of each enclosed area, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
- 2. The bottom of all openings shall be no higher than one foot above grade;
- 3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they either permit the automatic entry and exit of floodwater, or have been designed and certified by a registered engineer or architect.

f. Machinery and Service Equipment

All new construction, substantial improvement and other proposed new development shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

B. STANDARDS FOR STORAGE OF MATERIALS AND EQUIPMENT

- 1. The storage or processing of materials that could be injurious to human, animal or plant life if released due to damage from flooding is prohibited in Special Flood Hazard Areas.
- 2. Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

C. STANDARDS FOR WATER SUPPLY AND WASTE DISPOSAL SYSTEMS

- 1. All new or replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from systems into flood waters.
- 2. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 3. Waste disposal systems shall not be installed wholly or partially in a regulatory floodway.

D. ADDITIONAL DEVELOPMENT STANDARDS FOR SUBDIVISIONS

- 1. All new subdivision proposals and other proposed development (including proposals for manufactured home parks and subdivisions), greater than 50 lots or 5 acres, whichever is the lesser, shall:
 - a. Identify the Special Flood Hazard Area and the elevation of the Base Flood;
 - b. Identify on the final plans the elevation(s) of the proposed structure(s) and pads. If the site is filled above the Base Flood Elevation, the final lowest floor and grade elevations shall be certified by a registered professional engineer or surveyor and provided to the Floodplain Administrator for verification.
 - c. All subdivision proposals and other proposed development shall be consistent with the need to minimize flood damage.
 - d. All subdivision proposals and other proposed development shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
 - e. All subdivision proposals and other proposed development shall provide adequate drainage to reduce exposure to flood hazards.

E. STANDARDS FOR MANUFACTURED HOMES

All manufactured homes that are placed on site or substantially improved shall:

- 1. Be elevated to conform with Section 18.08.05.A.3.a (1), (2), or (3) as appropriate so that the bottom of the structural frame or the lowest point of any attached appliances, whichever is lower, is at or above the Regulatory Flood Elevation; and
- 2. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state, county and local anchoring requirements for resisting wind

forces.

Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor that the elevation requirements of this section have been satisfied shall be provided to the Floodplain Administrator for verification.

F. STANDARDS FOR RECREATION VEHICLES

All recreational vehicles placed on site shall:

- 1. Be on site for fewer than 180 consecutive days;
- 2. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
- 3. Meet the permit requirements of Section 18.08.04 of this ordinance and the elevation and anchoring requirements for manufactured homes in Section 18.08.05.D.

G. FLOODWAYS

Located within the special flood hazard areas established in Section 18.08.03.B are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- Prohibit encroachments, including fill, new construction, substantial improvements and other development, unless certification by a registered professional engineer or architect is provided to the Floodplain Administrator demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- 2. No activity is permitted within a floodway which might cause lateral migration of waters at high or low stages, or channel bed degradation/aggradation without a Floodplain Development Permit.
- 3. If Section 18.08.05.G is satisfied, all new construction and substantial improvements shall also comply with all other applicable flood hazard reduction provisions of Section 18.08.05.

18.08.06 VARIANCE PROCEDURE

A. NATURE OF VARIANCES

The variance criteria set forth in this section of the ordinance is based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. A variance may be granted for a parcel of property with physical characteristics so unusual that complying with the requirements of this ordinance would create an exceptional hardship to the applicant or the surrounding property owners. The characteristics must be unique to the property and not be shared by adjacent parcels. The unique characteristic must pertain to the land itself, not to the structure, its inhabitants or the property owners. A variance cannot be self-caused.

It is the duty of the City of Cottonwood to help protect its citizens from flooding. This need is so compelling and the implications of the cost of insuring a structure built below the Regulatory Flood Elevation are so serious that variances from the flood elevation or from other requirements in the flood ordinance are extremely rare. The long-term goal of preventing and reducing flood loss and damage can only be met if variances are strictly limited. Therefore, the variance guidelines provided in this ordinance are more detailed and contain multiple provisions that must be met before a variance can be properly granted. The criteria are designed to screen out those situations in which alternatives other than a variance are more appropriate.

B. Floodplain Review Board

- 1. The City Council, acting as the Floodplain Board may establish a board of review, which may be the advisory board or a committee of the advisory board to sit in review and make decisions. If the City Council in its capacity as the Floodplain Board does not establish a separate Floodplain Review Board, then the City Council in its capacity as the Floodplain Board shall act as the Floodplain Review Board.
- 2. The Floodplain Review Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- 3. In considering such applications, the Floodplain Review Board shall consider all technical evaluations, relevant factors, standards specified in other sections of this ordinance, and:

- 4. The danger that materials may be swept onto other lands to the injury of others;
- 5. The danger of life and property due to flooding or erosion damage;
- 6. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 7. The importance of the services provided by the proposed facility to the community;
- 8. The necessity to the facility of a waterfront location, where applicable;
- 9. The availability of alternative locations for the proposed use, which are not subject to flooding or erosion damage;
- 10. The compatibility of the proposed use with existing and anticipated development;
- 11. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- 12. The safety of access to the property in time of flood for ordinary and emergency vehicles;
- 13. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site;
- 14. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, water system and streets and bridges.
- 15. Upon consideration of the factors of Section 18.08.06.B (3) and the purposes of this ordinance, the Floodplain Review Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- 16. Any applicant to whom a variance is granted shall be given written notice by the Floodplain Administrator that:
- 17. The issuance of a variance to construct a structure below the Regulatory Flood Elevation may result in increased premium rates for

flood insurance up to amounts as high as \$25 for \$100 of insurance coverage or more; and

- 18. Such construction below the regulatory flood elevation increases risks to life and property;
- 19. The land upon which the variance is granted shall be ineligible for exchange of state land pursuant to the flood relocation and land exchange program provided by A.R.S. § 37-610. A copy of the notice shall be recorded in the office of the Yavapai County Recorder and shall be recorded in a manner so that it appears in the chain of title of the affected parcel of land.
- 20. The Floodplain Administrator shall maintain a record of all variance actions, including justification for their issuance.

C. Conditions for Variances

- 1. Variances shall only be issued:
 - a. Upon a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances;
 - b. For the repair, rehabilitation or restoration of structures listed in the National Register of Historic Places or the State Inventory of Historic Places, upon a determination that the proposed repair or rehabilitation will not preclude the structures' continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure;
 - c. Upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief;
 - d. Upon a showing of good and sufficient cause;
 - e. Upon a determination that failure to grant the variance would result in exceptional hardship to the applicant; and/or

- f. Upon a showing that the use cannot perform its intended purpose unless it is located or carried out in close proximity to water. This includes only facilities defined in Section 18.08.02 of this ordinance in the definition of "Functionally Dependent Use."
- 2. Variances shall not be issued within any floodway if any increase in flood levels during the base flood discharge would result.
- 3. Generally variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the Regulatory Flood Elevation, provided the procedures of Sections 18.08.04 and 18.08.05 of this ordinance have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.

<u>Section 2</u>: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity of the remainder.

Section 3. This Ordinance will be effective as provided by law.

PASSED AND ADOPTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF COTTONWOOD, YAVAPAI COUNTY, ARIZONA, THIS 15TH DAY OF SEPTEMBER, 2015.

	Diane Joens, Mayor	
ATTEST:		
Marianne Jiménez, City Clerk		

APPROVED AS TO FORM:	
Steve Horton, Esq.	
City Attorney	



Joining the National Flood Insurance Program

FEMA 496

May 2005



Joining the National Flood Insurance Program

The National Flood Insurance Program (NFIP) was established with the passage of the National Flood Insurance Act of 1968. The NFIP is a Federal program enabling property owners in participating communities to purchase insurance as a protection against flood losses in exchange for State and community floodplain management regulations that reduce future flood damages. Over 20,000 communities participate in the Program.

The decision on whether to join the NFIP is very important for a community. There is no Federal law that requires a community to join the Program and community participation is voluntary. A benefit of participation is that your citizens are provided the opportunity to purchase flood insurance to protect themselves from flood losses. Another consideration is that a community that has been identified by the Department of Homeland Security's Federal Emergency Management Agency (FEMA) as being flood-prone and has not joined the NFIP within one year of being notified of being mapped as flood-prone will be sanctioned. This means that Federal agencies cannot provide financial assistance for buildings in flood hazards areas.

FEMA is required by law to identify and map the Nation's flood-prone areas. The identification of flood hazards serves many important purposes. Identifying flood hazards creates an awareness of the hazard, especially for those who live and work in flood-prone areas. Maps provide States and communities with the information needed for land use planning and to reduce flood risk to floodplain development and implement other health and safety requirements through codes and regulations. States and communities can also use the information for emergency management.

To participate in the NFIP, a community must adopt and enforce floodplain management regulations that meet or exceed the minimum requirements of the Program. These requirements are intended to prevent loss of life and property and reduce taxpayer costs for disaster relief, as well as minimize economic and social hardships that result from flooding.

When FEMA provides a community with a flood hazard map, the community should carefully review these maps and determine whether flood insurance and floodplain management would benefit the community and its citizens.

In making the decision whether to join the NFIP, communities need to keep in mind that homeowners' insurance policies generally do not cover flood losses, and many homeowners and other property owners are often unaware that their property is flood-prone. Even if your community has not been identified as flood-prone by FEMA, your community can still join the NFIP. By participating in the NFIP, property owners throughout the community will be able to purchase flood insurance.

Communities that have been identified as flood-prone by FEMA need to keep in mind that property owners in a non-participating community are ineligible for most forms of disaster assistance within the identified flood hazard areas. This does not affect communities that have not had flood hazards identified by FEMA.

What must a community do to join the NFIP?

To join the Program, the community must submit an application package that includes the following information:

- Application For Participation in the National Flood Insurance Program (FEMA Form 81-64):
- This one-page form asks for the following information:
- Community name
- Chief Executive Officer
- Person responsible for administering the community's floodplain management program
- Community repository for public inspection of flood maps
- Estimates of land area, population, and number of structures in and outside the floodplain
- Resolution of Intent: The community must adopt a
 resolution of intent, which indicates an explicit desire
 to participate in the NFIP and commitment to recognize
 flood hazards and carry out the
 objectives of the Program.

IMPORTANT FACTS YOU SHOULD KNOW

Floods are the most common and most costly natural disaster in the United States.

Before most forms of Federal disaster assistance can be offered, the President must declare a major disaster.

Flood insurance claims are paid whether or not a disaster has been Presidentially declared.

The most common form of Federal disaster assistance is a loan, which must be paid back with interest.

There are about 4.7 million flood insurance policies in force in more than 20,000 communities across the U.S.

Over the life of a 30-year mortgage, there is a 26-percent (or 1 in 4) chance that a building in a floodplain will experience a flood that will equal or exceed the 1-percent-chance flood (100-year flood).

Since 1969, the NFIP has paid over \$14 billion in flood insurance claims that have helped hundreds of thousands of families recover from flood disasters.

Approximately 25% of all claims paid by the NFIP are for policies outside of the mapped floodplain.

CAN YOUR COMMUNITY AFFORD NOT TO PARTICIPATE?

 Floodplain Management Regulations: The community must adopt and submit floodplain management regulations that meet or exceed the minimum flood plain management requirements of the NFIP.

Please contact your FEMA Regional Office or the NFIP State Coordinating Agency for information about joining the Program. These offices will provide an application, sample resolution, and a model floodplain management ordinance. (See "For Assistance" on the back page for contact information)

What are the requirements that a community must adopt?

The NFIP requirements are designed to ensure that new buildings and substantially improved existing buildings in flood-prone areas are protected from flood damages. The minimum NFIP floodplain management requirements that a community must adopt are located in **Title 44 of the Code of Federal Regulations (44 CFR) section 60.3**. The specific requirements that a community must adopt depend on the type of flood hazard data that is provided to the community by FEMA.

In addition to meeting the requirements of the NFIP, a community's floodplain management regulations must be legally enforceable. This means that the regulations must meet applicable provisions of State enabling laws, which authorize communities to enact and enforce floodplain management regulations and be adopted through a process that meets applicable State and local due process procedures.

State authority for floodplain management varies from State to State. Some States require that communities regulate floodplains to a higher standard than the minimum NFIP requirements for certain aspects of floodplain management. Some States have a requirement that communities must submit their floodplain management regulations to the State for approval. Communities should contact the State NFIP Coordinating Agency for assistance on specific State requirements that must also be met.

As indicated above, the FEMA Regional Office or the NFIP State Coordinating Agency can provide the community with a model floodplain management ordinance and guidance on the specific requirements the community will need to adopt.

What type of regulations can a community adopt?

Community floodplain management regulations are usually found in the following types of regulations: zoning ordinances, building codes, subdivision ordinance, sanitary regulations, and "stand alone" floodplain management ordinances. How your community approaches floodplain management depends on State laws and regulations and also how your community chooses to manage its flood hazards.

What happens if a community is identified as floodprone, but does not join the NFIP?

The following sanctions apply if a community does not qualify for participation in the NFIP within one year of being identified as flood-prone by FEMA. Non-participating communities that have not been identified as flood-prone by FEMA are not subject to these sanctions.

- Property owners will not be able to purchase NFIP flood insurance policies and existing policies will not be renewed.
- Federal grants or loans for development will not be available in identified flood hazard areas under programs administered by Federal agencies such as the Department of Housing and Urban Development, Environmental Protection Agency, and Small Business Administration.
- Federal disaster assistance for flood damage will not be provided to repair insurable buildings located in identified flood hazard areas.
- Federal mortgage insurance or loan guarantees, such as those written by the Federal Housing Administration and the Department of Veteran Affairs, will not be provided in identified flood hazard areas.
- Federally insured or regulated lending institutions, such as banks and credit unions, are allowed to make conventional loans for insurable buildings in flood hazard areas of nonparticipating communities.
 However, the lender must notify applicants that the property is in a flood hazard area and that the property is not eligible for Federal disaster assistance. Some lenders may voluntarily choose not to make these loans.

FOR ASSISTANCE

If your community needs assistance to join the NFIP, you can contact the FEMA Regional Office (see below for address and telephone number). You can also contact your respective State Coordinating Agency for the NFIP. You can go to http://www.fema.gov/about/contact/regions.shtm for a listing of the FEMA Regional Offices and the NFIP State Coordinating Agencies.

REGION I

CT, ME, MA, NH, RI, VT 99 High Street, 6th Floor Boston, MA 02110 877-336-2734

REGION II

NJ, NY, PR, VI 26 Federal Plaza, Ste. 1307 New York, NY 10278 212-680-3609

REGION III

DE, DC, MD, PA, VA, WV 615 Chestnut Street, 6th Floor Philadelphia, PA 19106 215-931-5608

REGION IV

AL, FL, GA, KY, MS, NC, SC, TN 3003 Chamblee-Tucker Rd. Atlanta, GA 30341 770-220-5200

REGION V

IL, IN, MI, MN, OH, WI 536 South Clark Street Chicago, IL 60605 312-408-5500

REGION VI

AR, LA, NM, OK, TX Federal Regional Center 800 North Loop 288 Denton, TX 76210 940-898-5399

REGION VII

IA, KS, MO, NE 2323 Grand Boulevard, Ste. 900 Kansas City, MO 64108 816-283-7061

REGION VIII

CO, MT, ND, SD, UT, WY Denver Federal Center, Bldg. 710, Box 25267 Denver, CO 80225 303-235-4800

REGION IX

AZ, CA, HI, NV, American Samoa, Guam, Marshall Islands and Northern Mariana Islands 1111 Broadway, Suite 1200 Oakland, CA 94607 510-627-7100

REGION X

AK, ID, OR, WA Federal Regional Center 130 228th Street SW Bothell, WA 98021-9796 425-487-4600

CLAIMS REPORT OF SEPTEMBER 1, 2015					
FUND TOTAL	VENDOR NAME	DESCRIPTION	\$	TOTAL -	
	CLAIMS EXCEPTIONS R	EPORT OF SEPTEMBER 1, 2015			
FUND	VENDOR NAME	DESCRIPTION		TOTAL	
All	City of Cottonwood	Payroll 07/31/2015	\$	551,599.05	
All	City of Cottonwood	Payroll 08/14/2015	\$	508,879.48	
All	City of Cottonwood	Payroll 08/28/2015	\$	518,302.83	
Gen	Courtesy Chevrolet	2015 Chevy for GOHS Grant	\$	53,180.30	
Gen	Happy Jack Lodge	Annual Sign for TVR	\$	6,600.00	
Utilities	Knickerbocker, Kenneth	Professional Services	\$	25,542.00	
A11	SC Fuels	July Fuel	\$	13,509.60	
Gen	USGS National Center MS 270	Hydrologic Data Collection	\$	17,250.00	
Gen	Verde Valley Senior Center	FY 14-15 Funding for 4th Qtr	\$	13,750.00	
A11	APS	Utilities	\$	29,590.34	
All	Arizona Municipal Risk Retention	Liability Insurance Coverage	\$	118,633.00	
Gen	Insight Public Sector	Ruckus Zone Director Software,etc.	\$	13,704.20	
WW	Felix Construction Company	RWRF Preconstruction Services	\$	10,728.00	
A11	APS	Utilities	\$	94,346.06	
A11	Arizona Public Employers Health	July Premium	\$	180,401.37	
Gen	AZ State Treasurer	July Court Fines	\$	16,640.95	
Gen	Cottonwood Chamber of Commerce	June Bed Tax	\$	15,186.46	
Utilities	HD Supply Waterworks	Supplies	\$	6,591.51	
HURF	Kear Civil Corporation	12th Street	\$	167,818.86	
Gen	Kinney Construction	Replace slab	\$	28,499.84	
Airport	Mercfuel	Fuel	\$	24,620.99	
Utilities	Northern Arizona Council of Government	Payment Assistance Program	\$	10,750.00	
HIDE		Comparition 10th Street	\$	6 006 00	
HURF All	Psomas	Consulting 12th Street	\$	6,926.00	
	SC Fuels	Fuel Control of the Wide	\$	15,015.66	
All	Accurate Building Maintenance	Custodial City Wide	\$	19,692.15	
Gen Gen	AZ State Department of Revenue AZ Public Safety Personnel Retirement	Annual Collections Assesment fee Pre-Pay FY 16 Employer Contribution	\$	24,467.18 1,135,483.52	
T T4 '11'4 '	AZ W W. l Co l	W M 1	ф	16 106 51	
Utilities	AZ Water Works Supply	Water Materials	\$	16,126.51	
Utilities	James Cooke & Hobson	Equipment M&R	\$	9,192.50	
Utilities	Preferred Pump	Grundofos pump Biosolids removal	\$	8,727.43 5,237.65	
Utilities Utilities	Salt River Extraction US Postmaster		\$	10,000.00	
Utilities	Brown & Brown Law Offices	July and August Postage Water Resource development	\$	5,810.00	
Utilities	Hennesy Mechanical Sales	Filter system	\$	24,974.73	
Gen	LenderLive Network	Sidewalk	\$	9,092.20	
All	SC Fuels	August Fuel	\$	12,399.43	
Gen	SC rueis	August ruei	Φ	12,399.43	
Hurf	Waste Management Inc	Transfer Station and portable toilets	\$	19,802.32	
A11	APS	Utilities	\$	21,365.86	
Utilities	ADEQ	AZODES Permit and Aquifer Protection Permit	\$	6,427.00	
All	City of Cottonwood	Water Utilities	\$	17,831.33	
Capital	Daniles Electronics LTD	Communications Center Equip	\$	14,721.14	
Gen	San Diego Police Equipment	Equipment	\$	5,171.25	
TOTAL			<u> </u>	3,814,588.70	